Administrative Register of Kentucky

LEGISLATIVE RESEARCH COMMISSION
FRANKFORT, KENTUCKY

VOLUME 16, NUMBER 8
THURSDAY, FEBRUARY 1, 1990

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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 5, 1990. See **tentative** agenda on pages 1569-1571 in this Administrative Register.

The **ADMINISTRATIVE REGISTER OF KENTUCKY** is the monthly supplement for the 1989 Edition of **KENTUCKY ADMINISTRATIVE REGULATIONS SERVICE.**

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

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

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

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

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ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
TENTATIVE AGENDA
February 5, 1990
(Rm. 107, Capitol Annex @ Noon)

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755 KAR 1:040. Disposal of property proceeds, title. (Deferred from January Meeting)
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815 KAR 10:030. Administration and enforcement of the Kentucky Standards of Safety (Fire Prevention Code). (Deferred from January Meeting)

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815 KAR 45:015. Aid to fire departments.
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904 KAR 3:020 & E. Eligibility requirements.

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907 KAR 1:404. Incorporation by reference of the independent laboratory services manual.
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Division of Building Codes Enforcement

Plumbing

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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 shall 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
904 KAR 2:116E

This emergency administrative regulation is necessary in order to comply with the decision rendered in the preliminary injunction by the U.S. District Court in the case Northern Kentucky Welfare Rights Association v. Wallace G. Wilkinson. This emergency administrative regulation differs from the previous administrative regulation in that the subsidy component is open to all eligible households that did not receive assistance in the subsidy phase which was open from October 16 through October 27, 1989. This emergency administrative regulation is necessary to implement an emergency program on December 18, 1989. This emergency administrative regulation shall be replaced by an ordinary administrative regulation in accordance with KRS Chapter 13A.

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

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

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

RELATES TO: KRS 194.050
STATUTORY AUTHORITY: KRS 194.050
EFFECTIVE: January 12, 1990
NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility as prescribed by Public Law 97-35 (Title XXVI of the Omnibus Budget Reconciliation Act of 1981 as amended) to administer a program to provide assistance for eligible low income households within the Commonwealth of Kentucky to help meet the costs of home energy. KRS 194.050 provides that the secretary shall, by regulation, develop policies and operate programs concerned with the welfare of the citizens of the Commonwealth. This regulation states the eligibility and benefits criteria for each of two (2) components of energy assistance, subsidy and crisis, under the Home Energy Assistance Program (HEAP).

Section 1. Definitions. Terms used in HEAP are defined as follows:
(1) "Principal residence" is the place where a person is living voluntarily and not on a temporary basis; the place he considers home; the place to which, when absent, he intends to return; and the place is identifiable from other residences, commercial establishments, or institutions.
(2) "Energy" means electricity, gas, and any other fuel that is used to sustain reasonable living conditions.
(3) "Household" means any individual or group of individuals who are living together in the principal residence as one (1) economic unit for whom residential energy is customarily purchased in common or who make undesignated payments for energy in the form of rent.
(4) "Economic unit" is one (1) or more persons sharing common living arrangements.
(5) "Subsidy component" is the portion of benefits reserved as energy assistance for heating.
(6) "Crisis component" is the component administered by local organizations under contract with the cabinet to provide heating crisis assistance.
(7) "Life threatening situation" under the crisis component means without heat or will be without heat within forty-eight (48) hours and temperatures at a dangerous level for household members.
(8) An "authorized representative" is the person applying on behalf of a household who presents to the cabinet or its representative a written statement signed by the appropriate household member authorizing that person to apply on the household's behalf.

Section 2. Application. Each household or authorized representative of the household requesting assistance shall complete an application and provide information necessary to determine eligibility and benefit amount. An application shall not be considered completed until all information needed to determine eligibility and benefit amount is received.

Section 3. Eligibility Criteria. (1) A household shall meet the following conditions of eligibility for receipt of a HEAP payment under the subsidy and crisis components:
(a) The amount of continuing and noncontinuing earned and unearned gross income including lump sum payments received by the household during the calendar month preceding the month of application shall be considered. Income received on an irregular basis shall be prorated.
(b) Gross income for the calendar month preceding the month of application shall be at or below the applicable amount shown on the income scale for the appropriate size household. Excluded from income are payments received by a household from a federal, state, or local agency designated for a special purpose and which the applicant shall spend for that purpose, payments made to others on the household's behalf, loans, reimbursements for expenses, incentive payments (JET [WIN] and JTPA) normally disregarded in AFDC, federal payments or benefits which shall be excluded according to federal law, and Supplemental Medical Insurance premiums.

Income Scale

Family Size	Monthly	Yearly
1	$ 548	$ 6,578
	$ [529	$ 6,347]
2	735	8,822
	[709	8,503]
3	922	11,066
	[888	10,659]
4	1,109	13,310
	[1,068	12,815]
5	1,296	15,554
	[1,248	14,971]
6	1,483	17,798
	[1,427	17,127]

(c) For each household member more than six (6), the above income eligibility limitation for six (6) shall be increased by $187 [180] monthly

or $2,244 [2,156] yearly.

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

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

(2) Households are eligible to receive benefits under the subsidy component once and under the crisis component not to exceed the maximum amount of benefits. The maximum amount of benefits from both components will not exceed $300.

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

(1) Payments to eligible households under the subsidy component shall be made for the full benefit amount based on type of energy for heating, monthly household income, and household size as follows:

Benefit Scales
Subsidy Component

Scale A.
Energy Sources: Electricity

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

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

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

Scale C.
Energy Sources: Coal, Wood

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

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

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

(4) In the crisis component the contracting agency may take into consideration household resources available for home heating in determining the minimum amount necessary to alleviate the crisis.

(5) In the crisis component the benefits for a household threatened with eviction whose heat is an undesignated portion of the rent, shall be for the energy portion of their rent which is defined as an amount up to the Standard Utility Allowance (SUA) in the Food Stamp Program as follows:

Household Size	SUA
1 and 2	$145
3	$151
4 or more	$166

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

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

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

(3) Payment under the subsidy II component is authorized by a one (1) party check made payable to the vendor or landlord if the heating is included as an undesignated portion of rent.

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

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

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

Section 7. Time Standards. Under the subsidy component, the cabinet shall make an eligibility determination promptly after receipt of a completed and signed application but not to exceed thirty (30) days. Under the crisis component, completed applications shall be processed so that the crisis is resolved within forty-eight (48) hours and in life threatening situations within eighteen (18) hours. Applicants under the crisis component shall have five (5) [ten (10)] working days from the date of application to provide information necessary to complete the application.

Section 8. Effective Dates. The following shall be the implementation and termination dates for HEAP depending upon the availability of funds:

(1)(a) Applications for the subsidy component shall be accepted from households containing at least one (1) member who is elderly (age sixty (60) or older) or receiving benefits due to 100 percent disability beginning October 16, 1989 [17, 1988] and ending by October 27, 1989 [28, 1988].

(b) Applications for the subsidy II component shall be accepted from households that were not eligible for subsidy I component beginning January 8, 1990, and ending by January 12, 1990, or until expenditures have resulted in utilization of available funds.

(2) Applications for the crisis component shall be accepted beginning January 15, 1990 [9, 1989] and ending by April 27, 1990, except in emergency situations where the household is without heat at the time of application. Applications for emergencies shall be accepted beginning December 18, 1989 [28, 1989].

(3) Applications shall be processed in the order taken until funds are expended. HEAP subsidy component shall be terminated when actual and projected component expenditures have resulted in utilization of available funds or October 27, 1989 [28, 1988].

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

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

(2) Up to $4,990,800 [9,677,341] of benefit funds shall be reserved for the crisis component. [Eighty-five (85) percent of] The funds reserved for the crisis component shall be allocated, by local administering agency, based upon the 1980 Census poverty levels of the counties served by the local administering agency. At any point after January 15, 1990 [Fifteen (15) percent of the funds plus any additional funds made available from the subsidy component or from the Energy Assistance Trust Fund shall be held by the contracting agency as a contingency fund to be allocated to any local administering agency of the state chosen at the discretion of the contracting agency to provide low income home energy assistance in accordance with its contract. On February 6, 1989,] all unobligated allocations may be reallocated by the contracting agency at the discretion [with the concurrence] of the Department for Social Insurance in order to assure crisis benefits availability on a statewide basis.

(3) Up to $10,400,000 [5,900,000] of benefit funds shall be reserved for the subsidy component. Any funds remaining unobligated from the subsidy component may be made available under the crisis component.

(4) An amount to be determined by the Department for Social Insurance shall be reserved from [Up to $300,000 of] the contingency fund under subsection (2) of this section [shall be reserved] to assure component availability until March 15, 1990 [1989] for emergency crisis assistance for households who are without heat.

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

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

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

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

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

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

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

MIKE ROBINSON, Commissioner
HARRY J. COWHERD, Secretary
APPROVED BY AGENCY: January 5, 1990
FILED WITH LRC: January 11, 1990 at 11 a.m.

REGULATIONS AS AMENDED BY PROMULGATING AGENCY AND REVIEWING SUBCOMMITTEE

COMPILER'S NOTE: The following regulation was amended at a joint meeting of the Senate and House State Government Committees, and became effective on January 9, 1990.

DEPARTMENT OF PERSONNEL
(As Amended)

101 KAR 2:020. Classification plan.

RELATES TO: KRS 18A.005, 18A.110
STATUTORY AUTHORITY: KRS Chapter 13A, 18A.110
NECESSITY AND FUNCTION: KRS 18A.110 requires the Commissioner of Personnel to promulgate comprehensive administrative regulations, consistent with the provisions of KRS Chapter 18A, which govern the classification plan for all positions in the classified service so that the same qualifications may reasonably be required for and the same schedule of pay equitably applied to all positions in the same job classification. This regulation is to assure uniformity and equity in administering the plan, in accordance with requirements of the statutes.

[Section 1. Preparation of Plan. The commissioner shall prepare and maintain a comprehensive position classification plan for classified state employees. The plan shall be based on investigation and analysis of all the duties and responsibilities assigned to each position, and each position shall be allocated to its proper job classification in the classification plan after consultation with appointing authorities. When complete, the classification plan shall include for each job classification an appropriate title and a class specification, including characteristics of the class, examples of duties and responsibilities, and the required education, experience and other qualifications. The plan shall be reviewed at least once every four (4) years.]

[Section 2. Allocation of Positions. (1) Every position shall be allocated to the appropriate job classification by the commissioner, after consultation with appointing authorities and consideration of their recommendations. Every position shall be placed in a specific job classification before final administrative action can be taken on appointments, transfers, promotions, changes in pay-grade status, or payment of salary involving the position. Such allocations become effective only after written approval of the commissioner.]

[(2) Those positions which are sufficiently similar as to duties performed, scope of discretion and responsibility, minimum requirements of training, experience, or skill, and which merit approximately equal pay shall be allocated to the same job classification.]

[(3) The commissioner shall allocate new positions to the proper job classification upon receipt of the prescribed forms of statements of duties, responsibilities and requirements of such positions from the appointing authority.]

[(4) The commissioner shall reallocate existing positions when it is determined that they are incorrectly allocated, and there has been no substantial change in duties from those in effect when such positions were last classified. The correction of the classification of an existing position by placement of the position into the job classification that is appropriate for the duties the employee has been and shall continue to perform is known as a reallocation. In all cases of reallocation, the employee in the position when it is reallocated shall serve therein with the corresponding status that he had before the position was reallocated.]

[(a) The appointing authority shall notify an employee in writing whose position is reallocated of the reallocation, of the reasons therefor, and of his right to request reconsideration by the commissioner within ten (10) working days of receipt of the notice, excluding the day he receives notification. A copy of the form for requesting reconsideration shall be attached to the notice.]

[(b) An employee who files a written request for reconsideration of the reallocation of his position with the commissioner shall be given a reasonable opportunity to be heard. The commissioner shall make a determination within sixty (60) days after the request has been filed by an employee. Such determination shall be in writing an shall advise the employee of the reason therefor. A copy of the appeal form shall be attached to the determination. An employee may appeal the determination of the commissioner to the board in accordance with 101 KAR 1:350.]

[(5) The commissioner shall change the classification of an employee when a material and permanent change in the duties or responsibilities of that employee occurs. This type of action is known as reclassification. In all cases of reclassification, the employee shall serve with the corresponding status he had before he was reclassified, providing he meets the qualification requirements for the job classification to which he is reclassified. Where a reclassification diminishes the salary range or level, rank, discretion, or responsibility as defined by the class specifications involved, the appointing authority shall notify the employee, in writing, of the reclassification and the reasons therefor. A copy of the appeal form shall be attached to the notice. An employee may appeal such reclassification in accordance with 101 KAR 1:350.]

Section 1. [3.] Interpretation of Class Specifications. (1) Class specifications are descriptive and explanatory. They are designed to indicate the kinds of positions which should be allocated to the various job classifications as determined by their characteristics and duties or responsibilities.

(2) Characteristics of a class are general statements indicating the level of responsibility and discretion of positions in that job classification.

(3) Examples of duties or responsibilities are not to be construed as describing what the duties or responsibilities of any position shall be and are not to be construed as limiting the appointing authorities' ability to take, add to, or otherwise alter the duties and responsibilities of a position. The use of an individual expression or illustration as to duties or responsibilities shall not be regarded

as excluding assignment of others not mentioned which are of similar kind or quality.

(4) Minimum requirements are comprehensive statements of the minimum background as to education, experience and other qualifications which will be required in all cases as evidence of an appointee's ability to perform the work properly.

Section 2. [4.] Official Copy of Class Specifications. (1) The Department of Personnel shall maintain a master set of all approved class specifications. Such specifications shall constitute the official class specifications in the classification plan. The copies of the specification for each job classification shall indicate the date of adoption or the last revision of the specification.

(2) The Department of Personnel shall provide each appointing authority with a set of the class specifications of those job classifications to which positions in his department are allocated and such other job classifications as it sees fit. Class specifications shall be available for inspection by any employee or the public under reasonable conditions during business hours.

Section 3. [5.] Title of Position. The title of the job classification to which a position has been allocated shall be used to designate such position in all [budget estimates,] payrolls and other official records, documents, vouchers, and communications in connection with all personnel processes. For purposes of internal administration or for any other purposes not involving the personnel processes, any office title, abbreviation, or code symbol may be used in lieu of the class title.

THOMAS C. GREENWELL, Commissioner
APPROVED BY AGENCY: September 15, 1989
FILED WITH LRC: September 15, 1989 at noon

COMPILER'S NOTE: The following regulations were amended by the promulgating agency and the Administrative Regulation Review Subcommittee at its January, 1990 meeting; and had not gone into effect at time of publication of this Register.

DEPARTMENT OF PERSONNEL
(As Amended)

101 KAR 2:100. Leave regulations.

RELATES TO: KRS 18A.030, 18A.110
STATUTORY AUTHORITY: KRS Chapter 13A, 18A.030, 18A.110, 18A.155
NECESSITY AND FUNCTION: KRS 18A.110 requires the Commissioner of Personnel to promulgate comprehensive administrative regulations, consistent with KRS Chapter 18A, which govern annual leave, sick leave, special leaves of absence, and for other conditions of leave. This regulation is necessary to comply with these statutory requirements.

Section 1. Annual Leave. (1) Each full-time employee in the state service, except seasonal, temporary, per diem, and emergency employees, and each part-time employee who works at least 100 hours a month shall accumulate annual leave with pay at the following rate:

Months of Service	Annual Leave Days
0-59 months	1 leave day per month; 12 per year
60-119 months	1 1/4 leave days per month; 15 per year
120-179 months	1 1/2 leave days per month; 18 per year
180 months and over	1 3/4 leave days per month; 21 per year

A full-time employee must have worked more than half of the workdays in a month to qualify for annual leave. Each employee shall be credited with additional leave upon the first day of the month following the month in which the leave is earned. In computing months of total service for the purpose of earning annual leave, only those months for which an employee earned annual leave shall be counted or in the case of a part-time employee, only those months in which the employee worked at least 100 hours shall be counted. In those cases where an employee is changed from part time to full time, those months in which the employee worked at least 100 hours as a part-time employee shall be counted in computing years of total service. Former employees who have been rehired and who have been previously dismissed for cause from state service shall receive credit for service prior to the dismissal, except where such dismissal resulted from a violation of KRS 18A.140, 18A.145, or 18A.990. In those cases where an employee is changed from full time to part time, those months for which the employee earned annual leave as a full-time employee shall be counted in computing months of total service. Employees serving on a part-time basis who work less than 100 hours a month shall not be entitled to annual leave.

(2) Annual leave may be accumulated and carried forward from one (1) calendar year to the next not to exceed the following maximum amounts:

Months of Service	Maximum Amount
0-59 months	Thirty (30) workdays
60-119 months	Thirty-seven (37) workdays
120-179 months	Forty-five (45) workdays
180-239 months	Fifty-two (52) workdays
240 months and over	Sixty (60) workdays

However, leave in excess of the above maximum amounts shall be converted to sick leave at the end of the calendar year, or upon retirement. Months of service for the purpose of determining the maximum amount of annual leave which may be accumulated and the amount to be converted to sick leave shall be computed as provided in subsection (1) of this section. Annual leave shall not be granted in excess of that earned prior to the starting date of leave.

(3) Absence due to sickness, injury, or disability in excess of that hereinafter authorized for such purposes may, at the request of the employee and within the discretion of the appointing authority, be charged against annual leave.

(4) Accumulated annual leave shall be granted by the appointing authority in accordance with operating requirements and, insofar as practicable, with the request of employees. An employee who makes a timely request for annual leave shall be granted annual leave by the

appointing authority, during the calendar year, up to at least the amount of time he earned that year.

(5) Employees are charged with annual leave for absence only on days upon which they would otherwise work and receive pay.

(6) Annual leave shall accrue only when an employee is working or on authorized leave with pay. Annual leave shall not accrue when an employee is on educational leave with pay.

(7) An employee who is transferred or otherwise changed from the jurisdiction of one agency to another shall retain his accumulated annual leave in the receiving agency.

(8) Before an employee may be placed on leave of absence without pay in excess of thirty (30) working days, he must have used or have been paid for any accumulated annual leave unless he has requested to retain up to ten (10) days of accumulated annual leave.

(9) Employees eligible for state contributions for life insurance and health benefits under the provisions of KRS Chapter 18A shall have worked or been on paid leave during the previous month subject to the following conditions:

(a) Any combination of workdays and paid leave used by the employee within a month shall entitle the employee to state-paid contributions for life insurance and health benefits in the following month.

(b) When an employee is unable to work, and elects to use paid leave to qualify for state contribution for life insurance and health benefits, he shall utilize his paid leave days consecutively.

(c) An employee who has exhausted paid leave shall not qualify for state contribution for life insurance and health benefits unless he works for more than half of the workdays in a month. If the employee is unable to work for more than half of the workdays in a month, the employee may continue his group health and life insurance benefits for the following month by paying the total cost of the state contributions and any employee contributions for such benefits.

(d) Any employee who leaves state government <u>on or prior to the 15th day</u> [in the middle] of the month, before working or being on paid leave for over half of the workdays in the month shall remain eligible for state contribution for life insurance and health benefits in the following month.

(10) Employees shall be paid in a lump sum for accumulated annual leave, not to exceed the maximum amounts as set forth in <u>paragraph (2) of this</u> section [2(2) of this regulation], when separated by proper resignation or retirement. In the case of layoff, the employee shall be paid in a lump sum for all accumulated leave. An employee in the unclassified service who reverts to the classified service or an employee who resigns one day and is employed the next day shall retain his accumulated leave in the receiving agency [unless he is appointed at a lower salary; in this case the employee has the option to be paid for accumulated annual leave at the higher rate]. The effective date of the separation shall be the last workday. [A pay voucher shall be submitted on accumulated annual leave.]

(11) An employee who has been dismissed for cause or who has failed to give proper notice of resignation may, at the discretion of the appointing authority, be paid in a lump sum for accumulated annual leave not to exceed the maximum amounts set forth in Section 2(2) of this regulation.

(12) Upon the death of an employee, his estate shall be entitled to receive pay for the unused portion of the employee's accumulated annual leave.

(13) Absence for a fraction or part of a day that is charged to annual leave shall be charged in hours or increments of one-quarter (1/4) hours.

Section 2. Sick Leave. (1) Each employee in the state service, except emergency, per diem and part-time employees who work less than 100 hours a month, shall accumulate sick leave with pay at the rate of one (1) working day for each month of service. An employee must have worked more than half of the workdays in a month to qualify for sick leave with pay. Each employee shall be credited with additional sick leave upon the first day of the month following the month in which the sick leave is earned. Employees serving on a part-time basis who work at least 100 hours a month shall accumulate sick leave with pay at the rate of one (1) working day for each month of service. Each employee shall be credited with additional sick leave upon the first day of the month following the month in which the sick leave is earned.

(2) Full-time employees completing 120 months of total service with the state shall be credited with ten (10) additional days of sick leave upon the first day of the month following the completion of 120 months of service. In computing months of total service for the purpose of crediting ten (10) additional days of sick leave, only those months for which an employee earned sick leave shall be used. In those cases where an employee is changed from part time to full time, those months in which the employee worked at least 100 hours as a part-time employee shall be counted in computing months of total service. Part-time employees who work at least 100 hours a month completing 120 months of total service with the state shall be credited with ten (10) additional sick leave days upon the first day of the month following the completion of 120 months of service. In computing months of total service for part-time employees who work at least 100 hours a month for the purpose of crediting ten (10) additional sick leave days, only those months in which the employee worked at least 100 hours shall be used. In those cases where an employee is changed from full time to part time, those months for which the employee earned sick leave as a full-time employee shall be counted in computing years of total service. The total service must be verified before the leave is credited to the employee's record. Former employees who have been rehired and who had been previously dismissed for cause from state service shall receive credit for service prior to the dismissal, except where such dismissal resulted from the violation of KRS 18A.140, 18A.145, or 18A.990.

(3) Unused sick leave may be accumulated with no maximum on accumulation.

(4) Sick leave shall accrue only when an employee is working or on authorized leave with pay. Sick leave shall not accrue when an employee is on educational leave with pay.

(5) An appointing authority shall grant accrued sick leave with pay when an employee:

(a) Receives medical, dental or optical

examination or treatment;

(b) Is disabled by sickness, injury or pregnancy. The appointing authority may require a doctor's statement attesting to the inability to perform his/her duties;

(c) Is required to care for a sick or injured member of his immediate family for a reasonable period of time. The appointing authority may require a doctor's statement supporting the need for care;

(d) Would jeopardize the health of others at his duty post, because of exposure to a contagious disease;

(e) Has lost by death a parent, child, brother or sister, or the spouse of any of them, or any persons related by blood or affinity with a similarly close association. Leave under this paragraph is limited to three (3) days or a reasonable extension at the discretion of the appointing authority.

(6) At the termination of sick leave with pay not exceeding six (6) months, the appointing authority shall return the employee to his former position. At the termination of sick leave with pay exceeding six (6) months, the appointing authority shall return the employee to a position for which he is qualified and which resembles his former position as closely as circumstances permit.

(7) An appointing authority shall grant sick leave without pay for so long as an employee is disabled by sickness, or illness, or pregnancy, and the total continuous leave does not exceed one (1) year. The appointing authority may require periodic doctor's statements during the year attesting to the continued inability to perform his/her duties. When the employee has given notice of his ability to resume his duties, the appointing authority shall return the employee to a position for which he is qualified and which resembles his former position as closely as circumstances permit; if there is no such position available, the regulations pertaining to layoff apply. An employee who is unable to return to work at the end of one (1) year of sick leave without pay, after being requested to return to work at least ten (10) days prior to the expiration of such sick leave, shall be dismissed by the appointing authority. An employee granted sick leave without pay may, upon request, retain up to ten (10) days of accumulated sick leave.

(8) Employees eligible for state contributions for life insurance and health benefits under the provisions of KRS Chapter 18A shall have worked or been on paid leave during the previous month subject to the following conditions:

(a) Any combination of workdays and paid leave used by the employee in within a month shall entitle the employee to state-paid contributions for life insurance and health benefits in the following month.

(b) When an employee is unable to work, and elects to use paid leave to qualify for state contribution for life insurance and health benefits, he shall utilize his paid leave days consecutively.

(c) An employee who has exhausted paid leave shall not qualify for state contribution for life insurance and health benefits unless he works for more than half of the workdays in a month. If the employee is unable to work for more than half of the workdays in a month, the employee may continue his group health and life insurance benefits for the following month by paying the total cost of the state contributions and any employee contributions for such benefits.

(d) Any employee who leaves state government <u>on or prior to the 15th day</u> [in the middle] of the month, before working or being on paid leave for over half of the workdays in the month shall remain eligible for state contribution for life insurance and health benefits in the following month.

(9) Absence for a fraction or part of a day that is chargeable to sick leave shall be charged in hours or increments of one-quarter (1/4) hours.

(10) An employee who is transferred or otherwise changed from the jurisdiction of one agency to another shall retain his accumulated sick leave in the receiving agency.

(11) Employees shall be credited for accumulated sick leave when separated by proper resignation, layoff, retirement, or when granted leave without pay. Former employees who are reinstated or reemployed shall have unused sick leave balances revived upon appointment and placed to their credit.

(12) In cases of absence due to illness or injury for which Workers' Compensation benefits are received, accumulated sick leave may be used in order to maintain regular full salary. If paid sick leave is used, Workers' Compensation pay benefits shall be assigned back to the state for whatever period of time an employee received paid sick leave. The employee's sick leave shall be immediately reinstated to the extent that Workers Compensation Benefits were assigned.

(13) Application for sick leave. An employee shall file a written application for sick leave with or without pay within a reasonable time. Except in cases of emergency illness, an employee shall request advance approval for sick leave for medical, dental or optical examination, and for sick leave without pay. In all cases of illness, an employee is obligated to notify his immediate supervisor or other designated person. Failure to do so in a reasonable period of time may be cause for denial of sick leave for the period of absence.

(14) Supporting evidence.

(a) An appointing authority may require an employee to supply supporting evidence in order to receive sick leave. A supervisor's or employee's certificate may be accepted, but a medical certificate may be required, signed by a licensed practitioner and certifying to the incapacity, examination, or treatment. An appointing authority shall grant sick leave when the application is supported by acceptable evidence.

(b) An appointing authority may place on sick leave an employee whose health might be jeopardized by job duties, whose health might jeopardize others, or whose health prevents performance of duties and responsibilities, and who, on request, fails to produce a satisfactory medical certificate.

<u>(15) An employee may donate or receive sick leave donation under the following conditions:</u>

<u>(a) An employee with a sick leave balance in excess of seventy-five (75) hours may donate any or all such excess to an employee with a documented medical emergency who has exhausted all annual leave, sick leave, and compensatory leave.</u>

<u>1. Such voluntary donation of excess sick leave shall be subject to the approval of and made on a form prescribed by the commissioner</u>

and shall include:
a. The name of the donor.
b. The agency in which the donor is employed.
c. The position number of the donor.
d. The Social Security number of the donor.
e. The name of the employee to which leave is being donated.
f. The agency in which the donee is employed.
g. The donee position number.
h. The donee Social Security number.
i. The maximum amount of the donor's leave in excess of seventy-five (75) hours which may be credited to the individual donee.
j. Certification by the donor that such donation is given without expectation or promise for any purpose other than that authorized by this regulation.
2. The donating employee shall [must] retain a sick leave balance of not less than seventy-five (75) hours.
3. A donating employee shall not sell, offer to sell, bargain, exchange, transfer, or assign accumulated sick leave for any consideration or in any manner other than that authorized by this regulation.
(b) A full-time, or part-time, status employee with a medical emergency who has exhausted all annual leave, sick leave, and compensatory leave may make application to receive donation of sick leave from an employee (or employees) with a sick leave balance in excess of seventy-five (75) hours. Application may be made in behalf of the employee by a personal representative of the employee in the event of the employee's incapacity to make application on his own behalf.
1. Application shall be made to the appointing authority on a form prescribed by the commissioner and shall include:
a. Employee name.
b. Position number.
c. Social Security number.
d. Employee title.
e. The reason transferred leave is needed, including a brief description of the nature, severity, and anticipated duration of the medical emergency.
f. Signature of the requestor or his personal representative.
2. The application shall be accompanied by certification by one (1) or more physicians of the medical reasons that the employee will be unable to perform the duties and responsibilities of his position for ten (10) or more consecutive working days.
(c) The appointing authority of the applicant to receive donated sick leave may require additional medical evidence prior to approval or denial of acceptance of sick leave donation. An employee may request an extension of approved, donated sick leave by presenting additional medical evidence to the appointing authority.
(d) At the end of each pay period while an employee is on donated leave, the employee's appointing authority shall credit that employee's sick leave balance with the number of hours which would otherwise be considered leave without pay, and shall notify the donor's appointing authority to reduce the donor's leave balance by that amount.
(e) No employee on donated sick leave shall be credited with leave in an amount in excess of the time of the documented medical emergency.
(f) No person shall through his office of employment use any promise, exchange, or influence to require an employee to donate excess sick leave to any other employee.
(g) For purposes of this regulation medical emergency shall mean an illness or injury of the employee or the employee's immediate family which will require the employee's absence from duty for ten (10) or more consecutive working days.
(h) A part-time employee with status may qualify for donated leave only to the extent of hours for which he would normally be scheduled to work.

Section 3. Court Leave. An employee shall be entitled to leave of absence from duties during his scheduled working hours, without loss of time or pay for that amount of time necessary to comply with subpoenas by any court, or administrative agency or body of the federal or state government or any political subdivision thereof, to serve as a juror or a witness except in cases where the employee himself or a member of his family is a party plaintiff. This leave shall include necessary travel time. If relieved from duty as a juror or witness during his normal working hours, the employee shall return to work.

Section 4. Compensatory Leave. (1) It shall be the responsibility of the appointing authorities to administer the overtime and compensatory leave provisions of the Fair Labor Standards Act. An employee who is authorized to work in excess of the prescribed hours of duty shall be granted compensatory leave on an hour-for-hour basis, subject to the provisions of the Fair Labor Standards Act and Kentucky Labor Laws. Compensatory leave may be accumulated or taken off in one-quarter (1/4) hour increments. The maximum amount of compensatory leave that may be accumulated shall be 200 hours.
(2) An employee who is transferred or otherwise changed from the jurisdiction of one agency to another shall retain his compensatory leave in the receiving agency.
(3) Upon separation from state service, employees will be paid for all unused compensatory leave at the greater of their regular hourly rate of pay or at the average regular rate of pay for the final three (3) years of employment.
(4) An employee who has accrued compensatory leave shall be permitted by the appointing authority or his designee to take such time off when practicable. To maintain a manageable level of accumulated compensatory time and for the specific purpose of reducing an employee's compensatory leave, an appointing authority or his designee may direct an employee to take accumulated compensatory time off from work. Notice must be in writing specifying the number of hours to be taken.
(5) An employee deemed to be "nonexempt" shall be paid one and one-half (1 1/2) times his regular hourly rate of pay for all hours worked in excess of forty (40) per week.
(6) An employee except one who is in policy making position, may, after accumulating 151 hours of compensatory leave, request that he be paid for fifty (50) hours at his regular rate of pay. An employee's leave balance shall be reduced accordingly.
(7) All employees, except those who are in policy making positions, shall be paid for fifty (50) hours at their regular hourly rate of pay upon accumulating 200 hours of compensatory

leave. The employee's leave balance shall be reduced accordingly.

(8) All employees whose prescribed hours of duty are normally less than forty (40) per week and who have not exceeded the maximum amount of compensatory time shall receive compensatory leave on an hour-for-hour basis until the total hours worked in that week reaches forty (40).

(9) Compensatory leave used during the same workweek it is earned does not constitute "hours worked" for computing paid overtime.

Section 5. Military Leave. Any employee who is an active member of the United States Army Reserve, the United States Air Force Reserve, the United States Naval Reserve, the United States Marine Corps Reserve, the United States Coast Guard Reserve, the United States Public Health Service Reserve, or the Kentucky National Guard shall be relieved from his civil duties upon request therefor, to serve under orders on training duty without loss of his regular compensation for a period not to exceed ten (10) working days in any one (1) calendar year, and any such absence shall not be charged to leave. Absence in excess of this amount will be charged as annual leave, compensatory leave or leave without pay. The appointing authority may require a copy of the orders requiring the attendance of an employee before granting military leave. An appointing authority shall grant an employee entering military duty a leave of absence without pay for a period of such duty not to exceed six (6) years. All accumulated annual and compensatory leave may be paid in a lump sum, at the request of the employee, upon receiving this leave.

Section 6. Voting Leave. All employees who are eligible and registered to vote shall be allowed, upon prior request, four (4) hours, for the purpose of voting. Such absence shall not be charged against leave. Employees who are not scheduled to work during voting hours shall not receive voting leave and shall not be entitled to compensatory leave in lieu of time off to vote. Employees who are permitted to work in lieu of voting leave shall be granted compensatory leave on an hour-for-hour basis.

Section 7. Special Leave of Absence. (1) In addition to leaves as above provided, an appointing authority may grant leave without pay for a period or periods not to exceed thirty (30) working days in any calendar year.

(2) An appointing authority, with approval of the commissioner, may grant leave of absence when requested by an employee for a period not to exceed twenty-four (24) months, with or without pay for assignment to and attendance at college, university, vocational or business school for the purpose of training in subjects related to the work of the employee and which will benefit the state service.

(3) An appointing authority, with approval of the commissioner, may grant an employee a leave of absence without pay for a period not to exceed one (1) year for purposes other than specified in this regulation that are deemed in the best interest of the state.

(4) An appointing authority, with approval of the commissioner, may place an employee on leave without pay for a period not to exceed thirty (30) working days pending an investigation into allegations of employee misconduct. The employee shall be notified in writing by the appointing authority that he is being placed on leave without pay and of the reasons therefor. If such investigation reveals no misconduct on behalf of the employee, he shall be made whole for the period of such leave and all records relating to the investigation will be purged from agency and Department of Personnel files. The appointing authority shall notify the employee in writing of the completion of the investigation and the action taken, including those cases where the employee voluntarily resigns in the interim.

(5) Employees eligible for state contributions for life insurance and health benefits under the provisions of KRS Chapter 18A shall have worked or been on paid leave during the previous month subject to the following conditions:

(a) Any combination of workdays and paid leave used by the employee within a month shall entitle the employee to state-paid contributions for life insurance and health benefits in the following month.

(b) When an employee is unable to work, and elects to use paid leave to qualify for state contribution for life insurance and health benefits, he shall utilize his paid leave days consecutively.

(c) An employee who has exhausted paid leave shall not qualify for state contribution for life insurance and health benefits unless he works for more than half of the workdays in a month. If the employee is unable to work for more than half of the workdays in a month, the employee may continue his group health and life insurance benefits for the following month by paying the total cost of the state contributions and any employee contributions for such benefits.

(d) Any employee who leaves state government <u>on or prior to the 15th day</u> [in the middle] of the month, before working or being on paid leave for over half of the workdays in the month shall remain eligible for state contribution for life insurance and health benefits in the following month.

Section 8. Absence Without Leave. An employee who is absent from duty without approval shall report the reason therefor to his supervisor immediately. Unauthorized and/or unreported absence shall be considered absence without leave and deduction of pay may be made for each period of such absence. Such absence may constitute grounds for disciplinary action.

WALLACE G. WILKINSON, Governor
THOMAS C. GREENWELL, Commissioner
APPROVED BY AGENCY: November 13, 1989
FILED WITH LRC: November 13, 1989 at 11 a.m.

DEPARTMENT OF PERSONNEL
(As Amended)

101 KAR 3:010. Leave regulations for unclassified service.

RELATES TO: KRS 18A.155
STATUTORY AUTHORITY: KRS Chapter 13A, 18A.155
NECESSITY AND FUNCTION: KRS 18A.155 requires the Commissioner of Personnel to submit to the Governor proposed administrative regulations for the unclassified service persons in positions enumerated in KRS 18A.155(1)(g), (h), (i), (j), (k), (p), (u) and (v). KRS 18A.155 further provides that these regulations shall be

approved by the Governor. In practice, the leave regulations (101 KAR 2:100) which apply to merit system employees in the following specific areas have also been applied to the aforementioned categories of employees in the unclassified service.

Section 1. Annual leave. (1) Each full-time employee in the state service, except seasonal, temporary, per diem, and emergency employees, or each part-time employee who works at least 100 hours a month shall accumulate annual leave with pay at the following rate:

Months of Service	Annual Leave Days
0-59 months	1 leave day per month; 12 per year
60-119 months	1 1/4 leave days per month; 15 per year
120-179 months	1 1/2 leave days per month; 18 per year
180 months and over	1 3/4 leave days per month; 21 per year

A full-time employee must have worked more than half of the workdays in a month to qualify for annual leave. Each employee shall be credited with additional leave upon the first day of the month following the month in which the leave is earned. In computing months of total service for the purpose of earning annual leave, only those months for which an employee earned annual leave shall be counted or in the case of a part-time employee, only those months in which the employee worked at least 100 hours shall be counted. In those cases where an employee is changed from part time to full time, those months in which the employee worked at least 100 hours as a part-time employee shall be counted in computing years of total service. Former employees who have been rehired and who have been previously dismissed for cause from state service shall receive credit for service prior to the dismissal, except where such dismissal resulted from a violation of KRS 18A.140, 18A.145, or 18A.990. In those cases where an employee is changed from full time to part time, those months for which the employee earned annual leave as a full-time employee shall be counted in computing months of total service. Employees serving on a part-time basis who work less than 100 hours a month shall not be entitled to annual leave.

(2) Annual leave may be accumulated and carried forward from one (1) calendar year to the next not to exceed the following maximum amounts:

Months of Service	Maximum Amount
0-59 months	Thirty (30) workdays
60-119 months	Thirty-seven (37) workdays
120-179 months	Forty-five (45) workdays
180-239 months	Fifty-two (52) workdays
240 months and over	Sixty (60) workdays

However, leave in excess of the above maximum amounts shall be converted to sick leave at the end of the calendar year. Months of service for the purpose of determining the maximum amount of annual leave which may be accumulated and the amount to be converted to sick leave shall be computed as provided in subsection (1) of this section. Annual leave shall not be granted in excess of that earned prior to the starting date of leave.

(3) Absence due to sickness, injury, or disability in excess of that authorized for such purposes may, at the request of the employee and within the discretion of the appointing authority, be charged against annual leave.

(4) Accumulated annual leave shall be granted by the appointing authority in accordance with operating requirements and, insofar as practicable, with the request of employees. An employee who makes a timely request for annual leave shall be granted annual leave by the appointing authority, during the calendar year, up to at least the amount of time he earned that year.

(5) Employees are charged with annual leave for absence only on days upon which they would otherwise work and receive pay.

(6) Annual leave shall accrue only when an employee is working or on authorized leave with pay. Annual leave shall not accrue when an employee is on educational leave with pay.

(7) An employee who is transferred or otherwise changed from the jurisdiction of one (1) agency to another shall retain his accumulated annual leave in the receiving agency.

(8) Before an employee may be placed on leave of absence without pay in excess of thirty (30) working days, he must have used or have been paid for any accumulated annual leave unless he has requested to retain up to ten (10) days of accumulated annual leave.

(9) Employees eligible for state contributions for life insurance and health benefits under the provisions of KRS Chapter 18A shall have worked or been on paid leave for more than half of the workdays in a month, except:

(a) When the employee is unable to work or take paid leave for more than half of the workdays in a month due to a work related injury covered by workers compensation.

(b) When the employee is unable to work or take paid leave for more than half of the workdays in a month due to his or immediate family member's prolonged illness or disability verified by a medical certificate signed by a licensed physician and certifying to the prolonged incapacity or illness.

(10) Employees shall be paid in a lump sum for accumulated annual leave, not to exceed the maximum amounts as set forth in Section 1(2) of this regulation, when separated by proper resignation or retirement. In the case of layoff, the employee shall be paid in a lump sum for all accumulated annual leave. An employee in the unclassified service who reverts to the classified service or an employee who resigns one day and is employed the next day shall retain his accumulated leave in the receiving agency [unless he is appointed at a lower salary; in this case the employee has the option to be paid for accumulated annual leave at the higher rate]. The effective date of the separation shall be the last workday. [A pay voucher shall be submitted on accumulated annual leave.]

(11) An employee who has been dismissed for cause or who has failed to give proper notice of resignation may, at the discretion of the appointing authority, be paid in a lump sum for accumulated annual leave not to exceed the maximum amounts set forth in Section 1(2) of this regulation.

(12) Upon the death of an employee, his estate

shall be entitled to receive pay for the unused portion of the employee's accumulated annual leave.

(13) Absence for a fraction or part of a day that is charged to annual leave shall be charged in hours or increments of one-quarter (1/4) hours.

Section 2. Sick Leave. (1) Each employee in the state service, except an emergency, per diem and part-time employees who work less than 100 hours a month, shall accumulate sick leave with pay at the rate of one (1) working day for each month of service. An employee must have worked more than half of the workdays in a month to qualify for sick leave with pay. Each employee shall be credited with additional sick leave upon the first day of the month following the month in which the sick leave is earned. Employees serving on a part-time basis who work at least 100 hours a month shall accumulate sick leave with pay at the rate of one (1) working day for each month of service. Each employee shall be credited with additional sick leave upon the first day of the month following the month in which the sick leave is earned.

(2) Full-time employees completing 120 months of total service with the state shall be credited with ten (10) additional days of sick leave upon the first day of the month following the completion of 120 months of service. In computing months of total service for the purpose of crediting ten (10) additional days of sick leave, only those months for which an employee earned sick leave shall be used. In those cases where an employee is changed from part time to full time, those months in which the employee worked at least 100 hours as a part-time employee shall be counted in computing months of total service. Part-time employees who work at least 100 hours a month completing 120 months of total service with the state shall be credited with ten (10) additional sick leave days upon the first day of the month following the completion of 120 months of service. In computing months of total service for part-time employees who work at least 100 hours a month for the purpose of crediting ten (10) additional sick leave days, only those months in which the employee worked at least 100 hours shall be used. In those cases where an employee is changed from full time to part time, those months for which the employee earned sick leave as a full-time employee shall be counted in computing years of total service. The total service must be verified before the leave is credited to the employee's record. Former employees who have been rehired and who had been previously dismissed for cause from state service shall receive credit for service prior to the dismissal, except where such dismissal resulted from the violation of KRS 18A.140, 18A.145, or 18A.990.

(3) Unused sick leave may be accumulated with no maximum on accumulation.

(4) Sick leave shall accrue only when an employee is working or on authorized leave with pay. Sick leave shall not accrue when an employee is on educational leave with pay.

(5) An appointing authority shall grant accrued sick leave with pay when the employee:

(a) Receives medical, dental or optical examination or treatment;

(b) Is disabled by sickness, injury or pregnancy. The appointing authority may require a doctor's statement attesting to the inability to perform his/her duties;

(c) Is required to care for a sick or injured member of his immediate family for a reasonable period of time. The appointing authority may require a doctor's statement supporting the need for care;

(d) Would jeopardize the health of others at his duty post, because of exposure to a contagious disease;

(e) Has lost by death a parent, child, brother or sister, or the spouse of any of them, or any persons related by blood or affinity with a similarly close association. Leave under this paragraph is limited to three (3) days or a reasonable extension at the discretion of the appointing authority.

(6) At the termination of sick leave with pay not exceeding six (6) months, the appointing authority may return the employee to his former position. At the termination of sick leave with pay exceeding six (6) months, the appointing authority may return the employee to a position for which he is qualified and which resembles his former position as closely as circumstances permit.

(7) An appointing authority shall grant sick leave without pay for so long as an employee is disabled by sickness, or illness, or pregnancy, and the total continuous leave does not exceed one (1) year. The appointing authority may require periodic doctor's statements during the year attesting to the continued inability to perform his/her duties. When the employee has given notice of his ability to resume his duties, the appointing authority may return the employee to a position for which he is qualified and which resembles his former position as closely as circumstances permit. An employee who is unable to return to work at the end of one (1) year of sick leave without pay, after being requested to return to work at least ten (10) days prior to the expiration of such sick leave, shall be dismissed by the appointing authority. An employee granted sick leave without pay may, upon request, retain up to ten (10) days of accumulated sick leave.

(8) Employees eligible for state contributions for life insurance and health benefits under the provisions of KRS Chapter 18A shall have worked or been on paid leave for more than half of the workdays in a month, except:

(a) When the employee is unable to work or take paid leave for more than half of the workdays in a month due to a work related injury covered by workers compensation.

(b) When the employee is unable to work or take paid leave for more than half of the workdays in a month due to his or immediate family member's prolonged illness or disability verified by a medical certificate signed by a licensed physician and certifying to the prolonged incapacity or illness.

(9) Absence for a fraction or part of a day that is chargeable to sick leave shall be charged in hours or increments of one-quarter (1/4) hours.

(10) An employee who is transferred or otherwise changed from the jurisdiction of one agency to another shall retain his accumulated sick leave in the receiving agency.

(11) Employees shall be credited for accumulated sick leave when separated by proper resignation, layoff, retirement, or when granted leave without pay in excess of thirty (30)

working days. Former employees who are reinstated or reemployed shall have unused sick leave balances revived upon appointment and placed to their credit.

(12) In cases of absence due to illness or injury for which Workers' Compensation benefits are received, accumulated sick leave may be used in order to maintain regular full salary. If paid sick leave is used, Workers' Compensation pay benefits shall be assigned back to the state for whatever period of time an employee received paid sick leave. The employee's sick leave shall be immediately reinstated to the extent that Workers' Compensation Benefits were assigned.

(13) Application for sick leave. An employee shall file a written application for sick leave with or without pay within a reasonable time. Except in cases of emergency illness, an employee shall request advance approval for sick leave for medical, dental or optical examination, and for sick leave without pay. In all cases of illness, an employee is obligated to notify his immediate supervisor or other designated person. Failure to do so in a reasonable period of time may be cause for denial of sick leave for the period of absence.

(14) Supporting evidence.

(a) An appointing authority may require an employee to supply supporting evidence in order to receive sick leave. A supervisor's or employee's certificate may be accepted, but a medical certificate may be required, signed by a licensed practitioner and certifying to the incapacity, examination, or treatment. An appointing authority shall grant sick leave when the application is supported by acceptable evidence.

(b) An appointing authority may place on sick leave an employee whose health might be jeopardized by job duties, whose health might jeopardize others, or whose health prevents performance of duties and responsibilities, and who, on request, fails to produce a satisfactory medical certificate.

(15) An employee may donate or receive sick leave donation under the following conditions:

(a) An employee with a sick leave balance in excess of seventy-five (75) hours may donate any or all such excess to an employee with a documented medical emergency who has exhausted all annual leave, sick leave, and compensatory leave.

1. Such voluntary donation of excess sick leave shall be subject to the approval of and made on a form prescribed by the commissioner and shall include:

a. The name of the donor.

b. The agency in which the donor is employed.

c. The position number of the donor.

d. The Social Security number of the donor.

e. The name of the employee to which leave is being donated.

f. The agency in which the donee is employed.

g. The donee position number.

h. The donee Social Security number.

i. The maximum amount of the donor's leave in excess of seventy-five (75) hours which may be credited to the individual donee.

j. Certification by the donor that such donation is given without expectation or promise for any purpose other than that authorized by this regulation.

2. The donating employee shall [must] retain a sick leave balance of not less than seventy-five (75) hours.

3. A donating employee shall not sell, offer to sell, bargain, exchange, transfer, or assign accumulated sick leave for any consideration or in any manner other than that authorized by this regulation.

(b) A full-time, or part-time, status employee with a medical emergency who has exhausted all annual leave, sick leave, and compensatory leave may make application to receive donation of sick leave from an employee (or employees) with a sick leave balance in excess of seventy-five (75) hours. Application may be made in behalf of the employee by a personal representative of the employee in the event of the employee's incapacity to make application on his own behalf.

1. Application shall be made to the appointing authority on a form prescribed by the commissioner and shall include:

a. Employee name.

b. Position number.

c. Social Security number.

d. Employee title.

e. The reason transferred leave is needed, including a brief description of the nature, severity, and anticipated duration of the medical emergency.

f. Signature of the requestor or his personal representative.

2. The application shall be accompanied by certification by one (1) or more physicians of the medical reasons that the employee will be unable to perform the duties and responsibilities of his position for ten (10) or more consecutive working days.

(c) The appointing authority of the applicant to receive donated sick leave may require additional medical evidence prior to approval or denial of acceptance of sick leave donation. An employee may request an extension of approved, donated sick leave by presenting additional medical evidence to the appointing authority.

(d) At the end of each pay period while an employee is on donated leave, the employee's appointing authority shall credit that employee's sick leave balance with the number of hours which would otherwise be considered leave without pay, and shall notify the donor's appointing authority to reduce the donor's leave balance by that amount.

(e) No employee on donated sick leave shall be credited with leave in an amount in excess of the time of the documented medical emergency.

(f) No person shall through his office of employment use any promise, exchange, or influence to require an employee to donate excess sick leave to any other employee.

(g) For purposes of this regulation medical emergency shall mean an illness or injury of the employee or the employee's immediate family which will require the employee's absence from duty for ten (10) or more consecutive working days.

(h) A part-time employee with status may qualify for donated leave only to the extent of hours for which he would normally be scheduled to work.

Section 3. Court Leave. An employee shall be entitled to leave of absence from duties during his scheduled working hours, without loss of time or pay for that amount of time necessary to comply with subpoenas by any court, or administrative agency or body of the federal or state government or any political subdivision thereof, to serve as a juror or a witness except

in cases where the employee himself or a member of his family is a party plaintiff. This leave shall include necessary travel time. If relieved from duty as a juror or witness during his normal working hours, the employee shall return to work.

Section 4. Compensatory Leave and Overtime. (1) It shall be the responsibility of the appointing authorities to administer the overtime and compensatory leave provisions of this section and the Fair Labor Standards Act. An employee who is authorized to work in excess of the prescribed hours of duty shall be granted compensatory leave on an hour-for-hour basis, subject to the provisions of the Fair Labor Standards Act and Kentucky Labor Laws. Compensatory leave may be accumulated or taken off in one-quarter (1/4) hour increments. The maximum amount of compensatory leave that may be accumulated shall be 200 hours.

(2) An employee who is transferred or otherwise changed from the jurisdiction of one agency to another shall retain his compensatory leave in the receiving agency.

(3) Upon separation from state service, employees will be paid for all unused compensatory leave at the greater of their regular hourly rate of pay or at the average regular rate of pay for the final three (3) years employment.

(4) An employee who has accrued compensatory leave shall be permitted by the appointing authority or his designee to take such time off if the use of such time does not unduly disrupt the operations of the agency. To maintain a manageable level of accumulated compensatory time and for the specific purpose of reducing an employee's compensatory leave, an appointing authority or his designee may direct an employee to take accumulated compensatory time off from work. Notice must be in writing specifying the number of hours to be taken.

(5) An employee deemed to be "nonexempt" shall be paid at one and one-half (1 1/2) times his regular hourly rate of pay for all hours worked in excess of forty (40) per week.

(6) An employee except one who is in policy making position, may, after accumulating 151 hours of compensatory leave, request that he be paid for fifty (50) hours at his regular rate of pay. An employee's leave balance shall be reduced accordingly.

(7)(a) All employees, except those who are in policy making positions, shall be paid for fifty (50) hours at their regular hourly rate of pay upon accumulating 200 hours of compensatory leave. The employee's leave balance shall be reduced accordingly.

(b) An employee in a policy making position shall be paid for all accrued compensatory leave, not to exceed 200 hours, only upon termination from the unclassified service. An employee who reverts to a position in the classified service or an employee who resigns one day and is employed the next day shall retain his accrued compensatory leave in the receiving agency [unless he is appointed at a lower salary; in this case the employee has the option to be paid for his compensatory leave at the higher rate].

(8) All employees whose prescribed hours of duty are normally less than forty (40) per week and who have not exceeded the maximum amount of compensatory time shall receive compensatory leave on an hour-for-hour basis until the total hours worked in that week reaches forty (40).

(9) Compensatory leave used during the same workweek it is earned does not constitute "hours worked" for computing paid overtime.

Section 5. Military Leave. Any employee who is an active member of the United States Army Reserve, the United States Air Force Reserve, the United States Naval Reserve, the United States Marine Corps Reserve, the United States Coast Guard Reserve, the United States Public Health Service Reserve, or the Kentucky National Guard shall be relieved from his civil duties upon request therefor, to serve under orders on training duty without loss of his regular compensation for a period not to exceed ten (10) working days in any one (1) calendar year, and any such absence shall not be charged to leave. Absence in excess of this amount will be charged as annual leave, compensatory leave or leave without pay. The appointing authority may require a copy of the orders requiring the attendance of an employee before granting military leave. An appointing authority shall grant an employee entering military duty a leave of absence without pay for a period of such duty not to exceed six (6) years. All accumulated annual and compensatory leave may be paid in a lump sum, at the request of the employee, upon receiving this leave.

Section 6. Voting Leave. All employees who are eligible and registered to vote shall be allowed, upon prior request, four (4) hours, for the purpose of voting. Such absence shall not be charged against leave. Employees who are not scheduled to work during voting hours shall not receive voting leave and shall not be entitled to compensatory leave in lieu of time off to vote. Employees who are permitted to work in lieu of voting leave shall be granted compensatory leave on an hour-for-hour basis.

Section 7. Special Leave of Absence. (1) In addition to leaves as above provided, an appointing authority may grant leave without pay for a period or periods not to exceed thirty (30) working days in any calendar year.

(2) An appointing authority, with approval of the commissioner, may grant leave of absence when requested by an employee for a period not to exceed twenty-four (24) months, with or without pay for assignment to and attendance at college, university, vocational or business school for the purpose of training in subjects related to the work of the employee and which will benefit the state service, or for other purposes that are deemed to be in the best interests of the state service.

(3) An appointing authority, with approval of the commissioner, may grant an employee a leave of absence without pay for a period not to exceed one (1) year for purposes other than specified in this regulation that are deemed in the best interest of the state.

(4) An appointing authority, with approval of the commissioner, may place an employee on leave without pay for a period not to exceed thirty (30) working days pending an investigation into allegations of employee misconduct. The employee shall be notified in writing by the appointing authority that he is being placed on leave without pay and of the reasons therefor. If such investigation reveals no misconduct on behalf of

the employee, he shall be made whole for the period of such leave and all records relating to the investigation will be purged from agency and Department of Personnel files. The appointing authority shall notify the employee in writing of the completion of the investigation and the action taken.

(5) Employees eligible for state contributions for life insurance and health benefits under the provisions of KRS Chapter 18A shall have worked or been on paid leave for more than half of the workdays in a month, except:

(a) When the employee is unable to work or take paid leave for more than half of the workdays in a month due to a work related injury covered by workers compensation.

(b) When the employee is unable to work or take paid leave for more than half of the workdays in a month due to his or immediate family member's prolonged illness or disability verified by a medical certificate signed by a licensed physician and certifying to the prolonged incapacity or illness.

Section 8. Absence Without Leave. An employee who is absent from duty without approval shall report the reason therefor to his supervisor immediately. Unauthorized and/or unreported absence shall be considered absence without leave and deduction of pay may be made for each period of such absence. Such absence may constitute grounds for disciplinary action.

WALLACE G. WILKINSON, Governor
THOMAS C. GREENWELL, Commissioner
APPROVED BY AGENCY: November 13, 1989
FILED WITH LRC: November 13, 1989 at 11 a.m.

DEPARTMENT OF PERSONNEL
(As Amended)

101 KAR 3:050. Unclassified service; promotion, transfer and disciplinary actions.

RELATES TO: KRS 18A.155
STATUTORY AUTHORITY: KRS Chapter 13A, 18A.155
NECESSITY AND FUNCTION: KRS 18A.155 requires the Commissioner of Personnel to submit to the Governor proposed administrative regulations for persons in positions enumerated in KRS 18A.115(1)(g), (h), (i), (j), (k), (p), (u) and (v). KRS 18A.155 further provides that these regulations shall be approved by the Governor. Nothing herein shall be construed to preclude the optional use of regulations promulgated under this section on behalf of employees enumerated in paragraphs (a), (b), (d), (e) and (q) of subsection (1) of KRS 18A.155 and on behalf of members of state boards and commissions who work on a full-time, salaried basis. This regulation complies with and implements this statutory provision.

Section 1. Promotion. (1) Vacancies may be filled by promotion whenever practicable and in the best interest of the service. Employees in executive policy-making positions serve at the pleasure of the appointing authority.

[(2) A promotion is the filling of a vacancy by the advancement of an employee from a position having a lower minimum salary. Promotion to an executive policy-making position requires prior written approval of the Governor in accordance with KRS 12.050.]

(2) [(3)] Any career employee promoted from a classified to an unclassified position retains his status in the classified service. On separation from the unclassified service, he reverts to a position in that class in which he had status in the agency from which he was terminated if a vacancy in that class exists. If no such vacancy exists in a position of the former class, the statutes (KRS 18A.113 and 18A.1132) [regulation (101 KAR 2:080, Section 2)] pertaining to layoff shall apply. He shall be considered for employment in any vacant position for which he is qualified pursuant to KRS 18A.130 and 18A.135.

(3) [(4)] An employee's promotion to a different agency must be approved by the appointing authority and the commissioner.

Section 2. Transfer. (1) The movement of an employee from one position to another of the same grade having the same salary ranges and the same level of responsibility shall be deemed a transfer. An employee appointed in accordance with KRS 12.050 cannot be transferred. A transfer may be an interagency or intra-agency action. An appointing authority, with written notice, may transfer an employee from one position to another in the unclassified service. An employee may request a transfer. The employee must meet the minimum requirements of the job class to which transferred.

(2) An employee may be transferred between agencies to a position having the same salary range and level of responsibility, with the approval of the commissioner.

Section 3. Demotion. [(1) "Demotion" means a change in the rank of an employee from a position in one (1) class to a position in another class having a lower minimum salary range or less discretion or responsibility.]

[(2) An employee may be demoted by the appointing authority with the approval of the Commissioner of Personnel. If the demotion is for cause, the employee may appeal to the Personnel Board pursuant to 101 KAR 1:350, Section 15 or KRS 18A.095(9).]

[(2)] [(3)] If, for personal or other reasons, an employee requests in writing that he be assigned to a position of a lower class, the appointing authority may make such a voluntary demotion. Involuntary demotions shall be intra-agency only.

Section 4. Detail to Special Duty. When the services of an [a permanent] employee are needed in a position within the agency other than the position to which regularly assigned, the employee may be detailed to that position for a period not to exceed one (1) year with approval of the Commissioner of Personnel. For detail to special duty the Commissioner of Personnel may waive the minimum requirements when requested by the appointing authority in writing.

Section 5. Temporary Overlap. With the prior approval of the commissioner, an agency may place an employee for training purposes, in a position currently occupied by another employee for a period not to exceed sixty (60) calendar days.

Section 6. Separations. [and Disciplinary Actions. (1) General provisions. Except as

otherwise provided in these regulations, the tenure of an employee shall be during good behavior and the satisfactory performance of his duties.]

[(2) Layoffs. An appointing authority may lay off an employee whenever he deems it necessary by reason of shortage of funds or work, abolishment of a position, or other material change in duties or organization. The employee shall be notified of the effective date at least fourteen (14) calendar days prior to such effective date and shall be given written notice of the reasons for the layoff. An career employee who has been promoted from the classified service to the unclassified service must be reverted to the classified service in order to be considered for layoff. On separation from the unclassified service, he reverts to a position in that class in which he had status in the agency from which he was terminated if a vacancy in that class exists. If no such vacancy exists in a position of the former class, the regulation (101 KAR 2:080, Section 2) pertaining to layoff shall apply. He shall be considered for employment in any vacant position for which he is qualified pursuant to reemployment procedures and KRS 18A.130 and 18A.135.]

[(3) Dismissals. The appointing authority, upon written notice, may remove an employee for cause, or without cause. If the dismissal is for cause, the employee may appeal to the Personnel Board pursuant to 101 KAR 1:350, Section 15, and the appointing authority must notify the employee in writing of the reasons for the dismissal and of the employee's right to appeal. An career employee who has been promoted from the classified service to the unclassified service and who is dismissed from the unclassified service without cause shall revert to the classified service. On separation from the unclassified service, he reverts to a position in that class in which he had status in the agency from which he was terminated if a vacancy in that class exists. If no such vacancy exists in a position of the former class, the regulation (101 KAR 2:080, Section 2) pertaining to layoff shall apply. He shall be considered for employment in any vacant position for which he is qualified pursuant to reemployment procedures and KRS 18A.130 and 18A.135.]

(1) [(4)] Resignations. An employee who desires to terminate his service with the state shall submit a written resignation to the appointing authority. Resignations shall be submitted at least fourteen (14) calendar days before the final working day. A copy of an employee's resignation shall be attached to the advice effecting the separation and be filed in the employee's service record in the department. Failure of an employee to give fourteen (14) calendar days notice with his resignation may result in forfeiture of accrued annual leave.

(2) [(5)] Retirement. If an employee is retired, he is considered as separated without prejudice.

[(6) Suspension. An appointing authority, upon written notice stating the reasons therefor, a copy of which shall be sent to the commissioner, may suspend an employee without pay or other compensation as punishment for disciplinary cause. Such a suspension shall not exceed thirty (30) working days during any twelve (12) month period. The twelve (12) month period begins with the first day of the suspension. An employee suspended for cause may appeal to the Personnel Board pursuant to 101 KAR 1:350, Section 15, and the appointing authority must notify the employee in writing of the employee's right to appeal.]

[(7) Disciplinary fines. An appointing authority may impose, as a disciplinary measure, a fine to be computed on the basis of the employee's current salary. Disciplinary fines may not exceed ten (10) days' pay for each occurrence, and may not exceed a total of thirty (30) days' pay in any twelve (12) month period. The employee shall be notified in writing by the appointing authority of the reasons for the action, a copy of which shall be sent to the commissioner. An employee receiving a disciplinary fine for cause may appeal to the Personnel Board pursuant to 101 KAR 1:350, Section 15, and the appointing authority must notify the employee in writing of the employee's right to appeal.]

[(8) Written reprimands. An appointing authority may give an employee a written reprimand as a preliminary disciplinary measure. A copy of the written reprimand shall be placed in the employee's personnel file in the agency and a copy shall be given to the employee, Department of Personnel and Personnel Board. The employee shall be given the opportunity to reply in writing to the written reprimand and to include this reply in his personnel file with the written reprimand. The employee shall be informed of his right to reply at the time the written reprimand is given.]

WALLACE G. WILKINSON, Governor
THOMAS C. GREENWELL, Commissioner
APPROVED BY AGENCY: November 13, 1989
FILED WITH LRC: November 13, 1989 at 11 a.m.

TRANSPORTATION CABINET
Department of Vehicle Regulation
Divisions of Motor Carriers and Motor Vehicle Licensing
(As Amended)

601 KAR 9:045. Proportional registration of rental vehicle fleets.

RELATES TO: KRS Chapter 186
STATUTORY AUTHORITY: KRS 186.020, 186.050
NECESSITY AND FUNCTION: This regulation sets out procedures to follow in registering rental vehicle[s] fleets in the Commonwealth that qualify for proportional registration by virtue of engaging in interstate commerce, or in a combination of interstate and intrastate commerce, and operating into, through or within the Commonwealth.

Section 1. (1) Proportional registration of fleets of rental vehicles. An owner or operator of a fleet or fleets of vehicles which are used exclusively for rental purposes for a period of less than thirty (30) days, may elect to proportionally register its fleet in the Commonwealth of Kentucky [this state]. The owner or operator who makes this election shall file an application with the Department of Vehicle Regulation on or before sixty (60) days prior to the registration period.

(2) The application shall be upon forms furnished by the department except, that for good cause, the commissioner may approve the use of and receive an application on a form

furnished by the fleet owner. The approval for the substitute form shall [must] be secured at least thirty (30) days prior to it use. Also, the request for the use of such forms shall [must] be in writing, setting forth circumstances to show why the standard forms would pose [work] a hardship.

(3) The proportional registrant[, hereunder,] shall maintain complete records, which [records] shall be subject to inspection by an authorized agent of the Department of Vehicle Regulation. The mileage and financial records [requested hereunder,] and all other records supporting the sworn application and not filed with the application, shall be maintained for a period not less than three (3) years.

Section 2. Commercial Vehicles (Trucks and Truck Tractors). (1) The application for registration of rental trucks and truck tractors shall be supported by a listing of all units in the rental fleet. These [; such] units shall be arranged in ascending sequential order by the identifying fleet unit number and reflect the following data for each unit: year, make, manufacturer's vehicle identification number, and declared gross weight. The applicant shall compute the number of units in each weight class in the fleet that shall be registered in the Commonwealth of Kentucky [this state] by dividing the total miles traveled in Kentucky by all units in each weight class for the year ending on the preceding August 31, by the total miles traveled in all jurisdictions by the same units for the same period of time, the resulting quotient, rounded to the the nearest ten thousandths, shall be multiplied by the total number of units in each weight class; provided, however, any fractional part shall be rounded and reported as one (1) unit. The weight classes shall be in accordance with the schedule of weight classes set forth in KRS 186.050(3).

(2) The department shall have thirty (30) days in which to examine, approve, or reject and return the [such] application. During the period commencing March 1 and ending at midnight on April 1, the owner shall apply for registration pursuant to the provisions of KRS 186.020 for the number of units reflected on the approved application [present approved application and certificates of registration together with appropriate fees to either the department in the instance of nonresident owner, or a county court clerk in the instance of a resident owner].

Section 3. Passenger Cars. (1) The application for registration of a fleet of rental passenger cars shall show:

(a) Total number of units in the rental fleet;

(b) Total amount of revenue arising from rental transaction from the total fleet for the previous year ending August 31;

(c) Total amount of revenue arising from rental transaction in this jurisdiction for the previous year ending August 31; and

(d) The [resulting] percentage of revenue arising in this jurisdiction to total revenue shall be multiplied by [applied to] the number of vehicles in such fleet. The result establishes the number of units which shall be licensed in Kentucky and shall be included on the application.

(2) The department shall have thirty (30) days in which to examine, approve, or reject and return such application.

(3) During the period commencing on the first day of the owner's birth month and ending at the close of business on the last day of the owner's birth month, the owner shall apply for registration pursuant to the provisions of KRS 186.020 for the number of units reflected on the approved application. **For corporations, the month of incorporation shall be considered the birth month.** [January 1 and ending at midnight on February 28, the owner shall present approved application and certificates of registration together with appropriate fees to either the department in the instance of nonresident owners, or a county court clerk in the instance of a resident owner.]

Section 4. Registration of Additional Fleet Vehicles. Vehicles acquired by the registrant after the commencement of the registration year and added to the proportionally registered fleet shall be registered by applying the same percentage used in the original application for such fleet, for such registration period, the regular registration fees due with respect to such vehicles for the remainder of the registration year.

Section 5. An owner of a fleet of rental vehicles as defined in the Articles of the International Registration Plan shall be deemed to have complied with the provisions of this administrative regulation if the owner has registered the fleet of vehicles under the applicable portion of the Articles of the International Registration Plan. This compliance shall be determined and stated in writing by the commissioner of the Department of Vehicle Regulation or his designee. The designee shall be appointed in writing. [(1) If a vehicle registered under the provisions of KRS 186.050(14) is removed from use in the fleet, the owner of the plate may turn it in to the department along with his certificate of apportioned registration and be given credit for the unexpired portion of the year. This credit may be applied toward the purchase of any new tags which the owner may obtain from the department during the current registration year. A fee of two (2) dollars must be paid for the issuance.]

[(2) If a plate and certificate of apportioned registration are turned in to the department, the owner may, at the end of the registration quarter, make application for a refund of the fees which apply to the unexpired quarters of the registration year.]

[Section 6. (1) If the owner of a vehicle registered pursuant to KRS 186.050(14) loses his copy of a certificate of apportioned registration he may obtain a duplicate from the Department of Vehicle Regulation by filing an affidavit upon a form furnished by the department and he shall pay to the department a fee of two (2) dollars.]

[(2) If the owner loses a registration plate issued him under the provisions of KRS 186.050(14) he shall surrender his certificate of apportioned registration to the department and file therewith a written statement as to the loss of the plate. Upon the payment of the sum of two (2) dollars to the department the owner shall be issued another certificate of apportioned registration and a plate which shall bear a different number from that of the lost

plate. The original copy of the surrendered certificate of apportioned registration shall be maintained by the department. The department shall forthwith cancel the registration corresponding to the number of the lost plate, and the cancellation shall be reported by the department to the Commander of the Department of State Police. Any person finding a lost registration plate shall deliver it to the Department of Vehicle Regulation or to any county court clerk for forwarding to the department.]

JEROME L. LENTZ, Commissioner
MILO D. BRYANT, Secretary
APPROVED BY AGENCY: October 13, 1989
FILED WITH LRC: October 16, 1989 at 11 a.m.

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

815 KAR 7:080 Licensing of fire protection sprinkler contractors.

RELATES TO: KRS Chapter 198B
STATUTORY AUTHORITY: KRS 198B.555
NECESSITY AND FUNCTION: The Commissioner of the Department of Housing, Buildings and Construction is required to adopt regulations for the administration of a Fire Protection Sprinkler Contractor's Law. This regulation establishes the qualifications, responsibilities, procedures and fees for licensing such contractors. This amendment is necessary to bring the regulation into technical compliance with KRS Chapter 13A and to more fully define the term "inspection".

Section 1. [3.] Definitions. (1) "Department" as defined by KRS 198B.550(1). [means the Department of Housing, Buildings and Construction.]

(2) "Certificate of competency" is the certificate of registration issued by the department to an individual [certificate holder] who has satisfied [passed] the requirements of the department as set forth in KRS 198B.550 through 198B.605 [Section 4 of this regulation] which authorizes a fire protection sprinkler contractor to obtain a license to engage in business pursuant to KRS 198B.550(3) [as defined in subsection (5) of this section].

(3) "Certificate holder" as defined by KRS 198B.550(5). [is an individual who has satisfactorily met and has received a certificate of competency and who serves as employee, owner, partner, or officer of a fire protection sprinkler contractor and prepares technical drawings, performs or supervises the installation, repair, alteration, addition, maintenance or inspection of a fire protection sprinkler system.]

(4) "Commissioner" as defined by KRS 198B.550(2). [means the Commissioner of the Department of Housing, Buildings and Construction.]

(5) "Fire protection sprinkler contractor" as defined by KRS 198B.550(3). [means a person or firm engaged in the business of preparing technical drawings, installation, repair, alteration, exterior maintenance or inspection of fire protection sprinkler systems and has in his employment a certificate holder.]

(6) "Fire protection sprinkler system" as defined by KRS 198B.550(6). [is a system of piping for which technical drawings have been prepared by or preparation supervised by a certificate holder in accordance with fire protection engineering standards. The system is supplied from a reliable, constant and sufficient water, gas or chemical supply, such as a gravity tank, fire pump, reservoir or pressure tank, or connection by underground piping to a city, county, municipal water district, authorized water main or both. The sprinkler system is considered the fire protection sprinkler system for purposes of this Act, and is a network of specially sized or hydraulically designed piping installed overhead and underground in a building, structure, or area, and to which sprinklers are connected in systematic pattern. The system includes a controlling valve and a device for actuating an alarm when a system is in operation. The system is activated by heat from a fire and causes the discharge of water, gas or chemical over the fire area. Fire protection sprinkler systems shall include the following types: wet-pipe systems, dry-pipe system, standpipe systems, preaction systems, deluge systems, combined dry-pipe and preaction systems, antifreeze systems and circulating closed loop systems, systems utilizing gases or chemicals, and any other fire suppression system previously approved by the state fire marshal or the chief building code official of the department.]

(7) "Inspection" means a physical and visual examination of a sprinkler system or portion thereof to verify that it conforms with the Kentucky Building Code and the standards adopted thereunder. [Such] Examinations of existing systems, including the actual operation of valves, devices or appliances and returning them to their normal service condition for purposes of determining whether a system is operating properly are not covered by this definition, although any certificate holder is deemed qualified to make these examinations.

(8) "Installation" means the initial placement of a system or its extension or alteration after initial placement.

Section 2. [1.] Responsibilities of the Commissioner. The commissioner shall review applications, accept fees and issue certificates and licenses to qualified persons and firms pursuant to this regulation. He shall conduct investigations upon complaints which allege that a certificate holder or licensed fire protection sprinkler contractor has acted in violation of KRS Chapter 198B or this regulation.

Section 3. [2.] Applicability. (1) This regulation applies to all firms and persons who engage in he business of design and preparation of technical drawings, installation, repair, alteration, extension, maintenance or inspection of any fire protection sprinkler system.

(2) Exceptions. This regulation shall not apply to:

(a) Professional engineers in the preparation of plans or construction inspections pursuant to KRS Chapter 322;

(b) Building officials, fire marshals or fire inspectors and insurance inspectors;

(c) Persons installing limited area sprinkler systems served by a domestic water supply

consisting of ten (10) sprinkler heads or less in one (1) structure;

(d) Persons working under the direct supervision of a certificate holder.

(e) Persons performing routine examination of existing suppression systems for purposes of determining if the system is operational.

Section 4. Application for Certificate of Competency. (1) All persons seeking to become certificate holders shall comply with the examination requirements set forth in KRS 198B.570 [demonstrate their competency by passing the National Institute for Certification in Engineering Technologies entitled Fire Protection Engineering Technology Automatic Sprinkler Design Level III test, (or the equivalent thereof approved by the commissioner] for the particular type of system for which the applicant wishes to be certified competent. For range hood suppression system competency, a manufacturer's certification shall be acceptable as an alternative to the foregoing test.

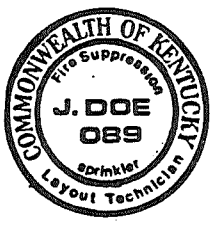
(2) Each application for a certificate of competency shall be made on the department's form entitled "Application for Certificate of Competency." The application shall be accompanied by all required documents and a nonrefundable certificate fee of $100, which shall be prorated.

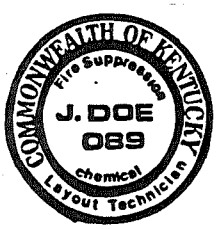
Section 5. Application for Licensed Fire Protection Sprinkler Contractors. (1) Any applicant for licensure shall [must] have a certificate holder in his employ and shall show proof of financial responsibility as required by KRS 198B.595. [must have, in effect, liability insurance in the premium amount of $250,000 per person and $500,000 per accident. For persons seeking to be licensed for the sole purpose of installing, repairing, maintaining and inspecting range hood fire suppression systems, the commissioner shall accept, as evidence of competency, the certification from the manufacturer of the range hood fire suppression system or from a professional engineer who has designed the system.]

[(2) The applicant shall complete and submit the required form together with a certificate of insurance in the amount of $250,000/$500,000 executed by a Kentucky licensed insurer and countersigned by a Kentucky licensed local agent. Such certificates shall remain in force until the insurer has terminated future liability by a thirty (30) day notice to the commissioner.]

(2) [(3)] The applicant shall submit a license fee in the amount of $200. The initial license fee shall be prorated.

Section 6. Certificate Holder Seal. Each certificate holder shall obtain and use a seal for all work prepared by him or under his direct supervision. The design shall be as follows:







Section 7. Certification/Licensure. (1) Upon completion of the requirements of KRS 198B.595 [Section 5 of this regulation], the certificate of competency shall be issued by the commissioner in the name of the certificate holder applicant.

(2) All fire protection sprinkler contractor licenses shall be issued in the name of the firm as set forth on the application and state the name of certificate holder on the face of the license.

(3) Each license and certificate shall expire on June 30 of each year and shall be renewed by refiling the necessary application together with a fee of $100 for each [the] certificate and $200 for each [the] license, prior to June 30.

Section 8. Duties and Responsibilities of Licensed Contractor and Certificate Holder. (1) No person shall represent oneself [himself] as a [certified] fire protection sprinkler contractor without first being licensed by the department in accordance with this regulation.

(2) The design of systems shall be prepared and submitted by either a licensed professional engineer or licensed fire protection sprinkler contractor as required by KRS 198B.565. [No licensed fire protection sprinkler contractor shall design a fire protection sprinkler system for any building requiring the services of an architect or an engineer pursuant to KRS 323.033; however, shop drawings, including hydraulic calculations where required by the engineer may be prepared by the contractor to supplement the design.]

(3) No person other than a certificate holder shall engage in any activity listed in Section 3(1) [(2)] of this regulation unless he is supervised by or has in his employ a certificate holder.

[(4) All material and information supplied by the contractor for a project requiring an engineer's seal shall be submitted to the professional engineer for the project who, in turn, shall submit them to the department and other necessary authority upon the engineer's written approval.]

[(5) The licensed fire protection sprinkler contractor may prepare and submit all plans and documents for the following buildings:]

[(a) Business, assembly, factory, mercantile and storage occupancies of less than 100 person capacity.]

[(b) Residential use groups of twelve (12) or less dwelling units or capacity of less than fifty (50).]

[Section 9. Disciplinary Action. (1) The department may refuse to renew or institute proceedings for the suspension or revocation of certificate holders and licensed contractors, or administrative fines in lieu thereof, not to exceed $500. The following shall constitute charges which are sufficient to initiate disciplinary action:]

[(a) False information or misrepresentation in obtaining such license or certificate.]

[(b) Failure to maintain required insurance.]

[(c) Failure to pay the renewal fee.]

[(d) Gross incompetency or gross negligence in the preparation of drawings, installation, repair, alteration, maintenance, inspection or addition to fire protection sprinkler systems, as determined by the commissioner.]

[(e) Conviction of a felony.]

[(f) Fraudulent or dishonest practices while engaging in the business of fire protection sprinkler systems.]

[(g) Signing or affixing his seal to any plans, prints, specifications or reports which have not been prepared by him personally or under his immediate supervision.]

[(h) Knowingly violating any provisions of KRS 198B.550 through 630 or this regulation.]

[(i) Violation of a Cease and Desist Order issued by the commissioner.]

[(2) The commissioner shall revoke the license of a licensed fire protection sprinkler contractor who engages in the fire protection sprinkler system business while the license is suspended.]

[(3) All suspensions and revocations are appealable to Franklin Circuit Court or the Circuit Court in which the property is located, if filed within thirty (30) days of notice of such revocation or suspension.]

Section 9. [10.] Procedures for Administrative Disciplinary Hearings. Disciplinary action authorized by KRS 198B.620 shall conform to the following procedures:

(1) Upon written complaint that a licensee or certificate holder has engaged in any prohibited behavior or failed to satisfy his responsibilities as set forth in this regulation, the commissioner shall cause an investigation to be made of the matter.

(2) If the commissioner determines that there is probable cause to believe the charges alleged, the commissioner or his designated representative, acting for the department, shall conduct a hearing as provided herein.

(3) In conducting the hearing, the commissioner or his designee shall have the authority to administer oaths and affirmatives, issue subpoenas authorized by law, rule upon offers of proof and receive relevant evidence, take or cause depositions to be taken, regulate the course of any hearings they may schedule and hold conferences for the settlement or simplification of the issues by consent of the parties.

(4) Any order to suspend or revoke a license or certificate and any order firing a licensee or certificate holder shall be signed by the commissioner or approved by him. The commissioner shall issue an order within thirty (30) days of the completion of any hearing subject to this regulation.

CHARLES A. COTTON, Commissioner
THEODORE T. COLLEY, Secretary
APPROVED BY AGENCY: November 2, 1989
FILED WITH LRC: November 9, 1989 at 8 a.m.

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

815 KAR 20:090. Soil, waste and vent systems.

RELATES TO: KRS Chapter 318
STATUTORY AUTHORITY: KRS 318.130
NECESSITY AND FUNCTION: The department is directed by KRS 318.130 through the State Plumbing Code Committee to adopt and put into effect a State Plumbing Code. This regulation relates to material and the design of the soil, waste and vent systems that will be used in all types of plumbing systems that are constructed throughout the Commonwealth. This amendment includes the deletion of archaic material; combining some material for more efficient application; creating an exception to allow the use of floor recessed receptables with fixed strainer in a tilting braising pan or cooker if the receptor receives no other waste and adding a new standard of PVC pipe. [This amendment is needed to prohibit connecting a house basement floor drain to a sewer system when it has been determined by the treatment facility that such connection is detrimental.]

Section 1. Grades and Supports of Horizontal Piping. All horizontal pipings shall be run in practical alignment and at a uniform grade of not less than one-eighth (1/8) inch per foot, and shall be supported or anchored in accordance with the manufacturer's recommendations but in no instance to exceed ten (10) feet in length. All stacks shall be supported at their bases and all pipes shall be rigidly secured. No-hub pipe and fittings shall be supported at each joint of pipe and fittings. Polyvinyl chloride and acrylonitrile-butadiene-styrene schedule forty (40) horizontal piping shall be supported at intervals not to exceed four (4) feet and at the base of all vertical stacks and at all trap branches as close to the trap as possible. Polyethylene pipe and fittings must be continuously supported with a V channel. Stacks shall [must] be rigidly supported at their bases and at each floor level.

Section 2. Change in Direction. All changes in direction shall be made by the appropriate use of forty-five (45) degree wyes, half-wyes, quarter, sixth, eighth or 16the bends, except that a single sanitary tee may be used in a vertical stack, or a sanitary tee may be turned on its back or side at an angle of not more than forty-five (45) degrees.

Section 3. Prohibited Fittings. No double hub bend or double hub tee or inverted hubs shall be used on sewers, soil or waste line. The drilling and tapping of house sewers or house drains, soil, waste or vent pipes, and the use of saddle hubs and bands is prohibited. Double sanitary tees may be used on vertical soil, waste and vent lines. All pipes shall be installed without hubs or restrictions that would reduce the area or capacity of the pipe.

Section 4. Dead Ends. In the installation of any drainage system, dead ends shall be avoided.

Section 5. Protection of Material. All pipes passing under or through walls shall be protected from breakage. All pipes passing through, or under cinder, concrete, or other corrosive material shall be protected against external corrosion.

Section 6. Materials. All main or branch soil, waste and vent pipes and fittings within or underneath a building shall be hub and spigot extra heavy or service weight cast iron, no-hub service weight cast iron, aluminum, galvanized steel, galvanized wrought iron, lead, brass, Types K, L, M, DWV copper, standard high frequency welded tubing conforming to ASTM B-586-73, Types R-K, R-L, R-DWV brass tubing,

DWV brass tubing conforming to ASTM B-587-73, seamless stainless steel tubing, Grade G or H conforming to CS-268-68, polyvinyl chloride schedule 40 or 80 conforming to ASTM D-2665-76, [and] D-1784-75 and F-891, acrylonitrile-butadiene-styrene schedule 40 or 80 conforming to ASTM D-2661-76, [and] D-1788-73, silicon iron or borosilicate. All mains or branch soil waste and vent pipe and fittings underground shall either be hub and spigot extra heavy or service weight cast iron, No-hub service weight cast iron, aluminum, Type K or L copper pipe, Type R-K, R-L brass tubing, lead, silicon iron or borosilicate pipe and fittings or plastics DWV listed above.

Section 7. Size of Soil and Waste Pipe per Fixture Unit on any One Stack. The following table, based on the rate of discharge from a lavatory as a unit, shall be employed to determine fixture equivalents:

Pipe Size (In Inches)	Maximum Developed Length	Fixture Units
1 1/4	25 ft.	1
1 1/2	60 [30] ft.	2
2	80 [50] ft.	6
2 1/2	100 ft.	12
3	225 ft.	36 [30]
4		96
5		180
6		420
8		1200
10		2400
12		4200

All water closets shall [must] be on a minimum of a three (3) inch waste with a maximum of three (3) water closets or soil discharging fixtures per three (3) inch stack.

[Section 8. Size of Combined Soil and Waste Pipe per Fixture Unit on any One Stack. The following table, based on the rate of discharge from a lavatory as the unit, shall be employed to determine fixture equivalents:]

Pipe Size (In Inches)	[(Maximum Developed Length of Combined Soil and Waste and Vent)	Fixture Units
*3	100 ft.	24
4		96
5		180
6		420
8		1200
10		2400
12		4200

* Not more than two (2) water closets or two (2) bathroom groups.]

[Section 9. Soil and Waste Branch Interval. The total number of fixture units installed on any soil or waste branch interval shall not exceed one-half (1/2) of the fixture units set forth in the table in Section 8, of this regulation.]

Section 8. [10.] Soil, and Vent Stacks. Every building in which plumbing fixtures are installed shall have a soil or [,] waste and[/or] vent stack, or stacks extending full size through the roof, except as otherwise provided for in Sections 7 [or 8] of this regulation. Soil or [,] waste and[/or] vent stacks shall be as direct as possible and free from sharp bends or turns. The required size of the soil or [,] waste and[/or] vent stack shall be determined from the total of all fixture units connected to the stack in accordance with Section 7 [or 8] of this regulation except that no more than three (3) [two (2)] water closets shall discharge into a three (3) inch stack.

Section 9. [11.] Future Openings. All openings left or installed in a plumbing system for future openings shall be complete with its soil, [and/or] waste and vent piping and shall comply with all other sections of this code.

Section 10. [12.] House Drain. (1) Size of house drain shall be determined by the total number of fixture units connecting to the house drain. The total area of vents through the roof shall [must] be equal to that of the house drain with a minimum of one (1) three (3) inch stack.

(2) When a three (3) inch house drain enters a building it shall be provided with a three (3) inch stack. One (1) floor drain shall [may] be added to the house drain with a three (3) inch trap if [provided that] it conforms with the requirements of Section 24 [26] [and 30] of this regulation, without counting toward the fixture units of the system. [Eight and one-half (8 1/2) fixture units may be added to the three (3) inch house drain if an additional two (2) inch stack is provided, the fixtures are vented in accordance with Section 23 of this regulation, the center of the last fixture opening does not exceed ten (10) feet (horizontal measures) from the center line of the house drain and these fixtures are installed on a lower level than the other fixtures in the system.]

Section 11. [13.] Soil and Waste Stacks, Fixture Connections. All soil and waste stacks and branches shall be provided with correctly faced inlets for fixture connections. Each fixture shall be independently connected to the soil [and/]or waste system. Fixture connections to water closets, floor outlet pedestal sinks, pedestal urinals, or other similar plumbing fixtures shall be made by either cast iron, lead, brass, copper, or plastic closet bends. All three (3) inch closet bends shall have a four (4) inch by three (3) inch flange.

Section 12. [14.] Changing Soil and Vent Pipes. In an existing building where the soil, waste and vent piping is not extended undiminished through the roof or where there is a sheet metal soil or waste piping, such piping shall be replaced with appropriate sizes and materials as prescribed for new work when a fixture or fixtures are changed or replaced.

Section 13. [15.] Prohibited Connections. No fixture connection shall be made to a lead bend or a branch of a water closet or a similar fixture. Vent pipes above the highest installed fixture on a branch or main shall not be used as a soil or waste pipe.

Section 14. [16.] Soil, Waste and Vent Pipe Protected. No soil, waste, or vent pipe shall be installed or permitted outside a building unless adequate provision is made to protect it from frost. The piping **shall** [must] be wrapped with one (1) layer of heavy hair felt and at least two (2) layers of two (2) ply tar paper, all properly bound with copper wire or in lieu thereof, the vent shall be increased to full size, the size of the increaser required as if it were passing through the roof.

Section 15. [17.] Roof Extensions. All roof extensions of soil and waste stacks shall be run full size at least one (1) foot above the roof, and when the roof is used for other purposes than weather protection, **the** [such] extensions shall not be less than five (5) feet above the roof. All stacks less than three (3) inches in diameter shall be increased to a minimum of three (3) inches in diameter before passing through a roof. When a change in diameter is made, the fitting **shall** [must] be placed at least one (1) foot below the roof.

Section 16. [18.] Terminals. If a roof terminus of any stack or vent is within ten (10) feet of the top, bottom, face or side edge of any door, window, scuttle, or air shaft, and not screened from **the** [such an] opening by a projecting roof or building wall, it shall be extended at least two (2) feet above the top edge of the window or opening.

Section 17. [19.] Terminals Adjoining High Buildings. No soil, waste or vent pipe extension of any new or existing building shall be run or placed on the outside of a wall, but shall be carried up in the inside of the building unless the piping is protected from freezing. **If** [In the event,] the new building is built higher than the existing building, the owner of the new building shall not locate windows within ten (10) feet of any existing vent stack on the lower building.

Section 18. [20.] Traps, Protected; Vents. Every fixture trap shall be protected against siphonage and backpressure. Air circulation shall be assured by means of an individual vent. Crown vents are not permitted.

Section 19. [21.] Distance of Trap from Vent. (1) The distance between the vent and the fixture trap shall be measured along the center line of the waste or soil pipe from the vertical inlet of the trap to the vent opening. The fixture trap vent, except for water closets and similar fixtures, shall not be below the dip of the trap, and all ninety (90) degree turns in the waste [water] line of the main waste, soil, or vent pipes shall be washed. Each fixture trap shall have a vent located with a developed length not greater than that set forth in the table below:

Size of Fixture Drain (In Inches)	Distance Trap to Vent
1 1/4	2 ft. 6 in.
1 1/2	3 ft. 6 in.
2	5 ft.
3	6 ft.
4	10 ft.

(2) A fixture branch on a water closet shall not be more than three (3) feet.

Section 20. [22.] Main Vents to Connect at Base. When a main vent or vent stack is used, it shall connect full size at the base of the main soil or waste pipe at or below the lowest fixture branch and shall extend undiminished in size through the roof or shall be reconnected with the main soil or vent stack at least six (6) inches above the rim of the highest fixture. This section shall not apply to one (1) and two (2) story installations. When it becomes necessary to increase a vertical vent stack it then becomes a main vent and **shall** [must] comply with other sections of this code.

Section 21. [23.] Vents; Required Sizes. (1) The required size of a vent or vent stacks shall be determined by the total number of fixture units it serves and the developed length of the vent, in accordance with the following table, interpolating, when necessary, between permissible length of vent given in the following table:

MAXIMUM PERMISSIBLE LENGTHS OF VENTS

Pipe Size (In Inches)	Maximum Length (In Feet)	Fixture Units
1 1/4	30	2
1 1/2	150	10 [8]
2	200	24 [18]
2 1/2	250	36
3	300	72
4	400	240
5	600	420
6	800	720

(2) Except for residential installations, if a fixture opening is installed more than twenty-five (25) feet of developed length from the point where it is connected to the main soil or waste systems, or, if more than ten (10) feet of vertical piping is used, the vent shall be continued full size through the roof or returned full size to the main vent.

Section 22. [24.] Branch and Individual Vents. In no instance shall a branch or individual vent be less than one and one-fourth (1 1/4) inches in diameter and shall not exceed the maximum length permitted for a main vent.

Section 23. [25.] Vent Pipes Grades and Connections. All vent and branch vent pipes shall be free from drops or sags and be so graded and connected as to drip back to the soil or waste pipe by gravity. Where vent pipes connect to a horizontal soil or waste pipe, the vent branch shall be taken off above the center line of the pipe, and the vent pipe must rise vertically at an angle of forty-five (45) degrees to the vertical, to a point six (6) inches above the fixture it is venting before offsetting horizontally or connecting to the branch, main, waste, soil or vent.

Section 24. [26.] Vents not Required; Backwater Traps, Subsoil Catch Basin and Basement Floor Drains. Vents shall not be required on a backwater trap, subsoil catch basin trap or a basement floor drain if [provided that] the basement floor drain

branches into the house drain so that measuring along the flow line from the center of the stack, the floor drain shall not be closer than five (5) feet of the stack, nor farther than twenty (20) feet. A basement floor drain also shall not require an individual vent if [provided] it branches into the house drain so that measuring along the flow line from the center of the house drain the basement floor drain shall not be farther than ten (10) feet from the house drain. [Vents will not be required on a backwater trap, or a subsoil catch basin trap, or a basement floor drain provided that the basement floor drain is the first opening on the house drain and that the basement floor drain branches into the house drain so that measuring along the flow line from the center of the stack, the floor drain shall not be closer than five (5) feet to the stack, nor farther than twenty (20) feet. The floor drain line shall be four (4) inches above the house drain. All floor drains on a house drain in between stacks shall be vented. All floor drains shall be the caulk-on-type.]

Section 25. [27.] When Common Vent Permissible. Where two (2) water closets, two (2) lavatories or two (2) of any fixtures of identical purpose are located on opposite sides of a wall or partition, or directly adjacent to each other within the prescribed distance as set forth in Section 19 [21] of this regulation measured along the center line of the flow of water, the fixtures may have a common soil or waste pipe and a common vent. It shall be vented in accordance with the other sections of this code.

Section 26. [28.] Floor Drain Individual Vent not Required. Manufacturers' floor drains do not require individual vents when they are placed on a waste line for floor drains only within the prescribed distance of ten (10) feet from the main waste line, or stack, if [provided] the base of the stack is washed and the stack or stacks are undiminished through the roof, or connected to a main vent stack.

Section 27. [29.] Floor drains and service sinks installed on the operational floor level of sewage and water treatment plant facilities which discharge into an open sump and are not connected directly to the sanitary sewage system are not required to be trapped or vented.

[Section 30. A Basement Floor Drain does not require an Individual Vent. A basement floor drain does not require an individual vent if it conforms to Section 26 of this regulation, or if it is the first floor drain on the main and is ahead of all sanitary openings and is not farther than five (5) feet from the main.]

Section 28. [31.] House Drain Material. House drains shall be either extra heavy cast iron, service weight cast iron, brass Type (K) or (L) copper, lead, ABS or PVC plastic, or duriron.

Section 29. [32.] Indirect Waste Connections. Waste pipe from a refrigerator drain or any other receptacle where food is stored or waste water from a water cooled compressor, shall connect indirectly with the house drain, soil or waste pipe. The drain shall be vented to the outside air. The [Such] waste pipes shall discharge into an open sink or another approved open receptacle that is properly supplied with water in accordance with other sections of this code. The [Such] connections shall not be located in an inaccessible or unventilated area.

Section 30. [33.] Bar and Soda Fountain Wastes. Bar and soda fountain wastes, sinks and receptacles shall have a one and one-half (1 1/2) inch P trap and branches. The main shall not be less than two (2) inches. The fresh air pipe shall not be less than one and one-half (1 1/2) inches. The main waste line shall discharge into a properly vented and trapped open receptacle inside or outside a building. Food storage compartment drains shall be indirectly connected through a trapped receptacle whose upper edge is raised at least one (1) inch above the finished floor line. Floor receptors or floor sinks installed specifically for the indirect wastes from tilting braising pans, tilting kettles and other similar equipment may be installed level with or slightly recessed in the floor if [provided] the receptor is equipped with a proper strainer and receives no other indirect waste.

Section 31. [34.] Open Receptacles. Soil or waste piping receiving the discharge from an open receptacle shall be at least six (6) inches above the surface of the ground when it discharges into a septic system.

Section 32. [35.] Refrigerator Wastes. Refrigerator waste pipes shall not be less than one and one-half (1 1/2) inches for one (1) to three (3) openings, and at least two (2) inches for four (4) to eight (8) openings. Each opening shall be trapped. Such waste piping shall be provided with sufficient clean-outs to allow for thorough cleaning.

Section 33. [36.] Overflow Pipes. Waste from a water supply tank or exhaust from a water lift shall not directly connect to a house drain, soil, or waste pipe. The [Such] waste pipe shall discharge upon a roof or into a trapped open receptacle.

Section 34. [37.] Acid and Chemical Wastes. Except as provided in this regulation [herein], no corrosive liquids shall be permitted to discharge into the soil, waste or sewer system. The [Such] waste shall be thoroughly diluted or neutralized by passing through a properly constructed and acceptable dilution or neutralizing pit before entering the house sewer.

Section 35. [38.] Laboratory Waste Piping. Laboratory waste piping shall be sized in accordance with the other sections of this code. Each fixture shall be individually trapped. A continuous waste and vent pipe system may be used, if [provided] the waste discharges into a vented dilution pit outside the building with a vent equal to the size of the drain. The vent may be eliminated when a pit has a ventilated cover. If under certain conditions a dilution pit is not required and is not used, each fixture shall be individually vented. If construction conditions permit, the base of the stack of the continuous waste and vent system shall be washed by the last fixture opening, and continue full size independently through the

roof. All fixture branches exceeding more than the distance specified in the table in Section 19 [21] of this regulation from the main shall be revented. The distance shall be measured from the center of the main to the center of the vertical riser. Fixture connections shall rise vertically to a height so that the trap will not be lower than twelve (12) inches from the bottom of the sink. Two (2) or more sinks may be connected into a common waste before entering the riser of the continuous waste and vent system, if [provided] the fixtures are not more than five (5) feet from the center of one (1) fixture to the center of the other.

Section 36. [39.] Acid Waste Piping. Underground piping for acid wastes shall be extra heavy salt glazed vitrified pipe, silicon iron, lead, polyethylene pipe and fittings conforming to ASTM D-1204-62T, polypropylene pipe conforming to ASTM D-4101-85, or other materials approved by the department. Piping for acid wastes and vents above ground shall be of silicon iron, lead, borosilicate, or polyethylene pipe conforming to ASTM D-1204-62T, polypropylene pipe conforming to ASTM D-4101-85, or filament-wound reinforced thermosetting resin pipe conforming to ASTM D-2996 (green or poly thread).

Section 37. [40.] Special Vents. Flat or wet vents serving a plumbing fixture may be constructed only with special permission from the department when a plumbing system is being remodeled or when additions are added to an original system; except that flat vents in new construction may also be allowed in commercial buildings when the design of the building prohibits the type of venting required by other sections of this regulation.

Section 38. [41.] Basement Floor Drains and Sanitary Sewage Systems. Basement floor drains shall be connected to the house sewer and properly trapped and vented as set forth in this regulation. EXEMPTION: Basement floor drains, in single family dwellings, shall not be connected to the house sewer and shall be exempt from this section if, prior to the installation, the local health department or sanitary sewage system board, plant, district, or treatment plant owner notifies the Division of Plumbing, in writing, that connection is detrimental to the functioning of the sanitary sewer system or subsurface system. If the drain is not to be connected to the house sewer, the installation is also exempt from the waste, trap and venting provisions of the State Plumbing Code.

CHARLES A. COTTON, Commissioner
THEODORE T. COLLEY, Secretary
APPROVED BY AGENCY: October 19, 1989
FILED WITH LRC: November 9, 1989 at 8 a.m.

REGULATIONS AMENDED AFTER PUBLIC HEARING

TRANSPORTATION CABINET
Department of Vehicle Regulation
Division of Motor Vehicle Enforcement
(Amended After Hearing)

601 KAR 1:005. 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
NECESSITY AND FUNCTION: This regulation sets out safety procedures to be followed by motor carriers operating in the Commonwealth of Kentucky.

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 passenger-carrying vehicle is licensed plus twenty-five (25) percent of the rated seating capacity.

Section 2. (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 following Motor Carrier Safety Regulations adopted and issued by the United States Department of Transportation:
(a) Title 49, Code of Federal Regulations Part 390, General, excluding Part 390.5, effective April 24, 1989 is adopted without change;
(b) Title 49, Code of Federal Regulations, Part 391, Qualifications of Drivers, effective April 24, 1989, is incorporated by reference with changes;
(c) Title 49, Code of Federal Regulations, Part 392, Driving of Motor Vehicles, effective November 15, 1988, is incorporated by reference with changes;
(d) Title 49 Code of Federal Regulations, Part 393, Parts and Accessories Necessary for Safe Operation, with a latest effective date of November 24, 1989 [March 7, 1989 (includes Part 393.1 which was amended by the U.S. Department of Transportation on March 24, 1989 with an effective date of November 15, 1988)] is adopted without change;
(e) Title 49, Code of Federal Regulations, Part 394, Notification, Recording and Reporting of Accidents, effective November 15, 1988 is adopted without change;
(f) Title 49, Code of Federal Regulations, Part 395, Hours of Service of Drivers, effective November 15, 1988 is adopted without change;
(g) Title 49, Code of Federal Regulations, Part 396, Inspection, Repair and Maintenance, effective December 7, 1989 [November 15, 1988] is adopted without change. The first annual inspection of motor carrier vehicles operating exclusively in intrastate commerce and subject to the provisions of this administrative regulation shall be completed by December 31, 1990 even though Part 396 mandates the first inspection for interstate carriers to be completed by July 1, 1990; and
(h) Title 49, Code of Federal Regulations, Part 397, Transportation of Hazardous Materials; Driving and Parking Rules, effective November 15, 1988 is adopted without change.
(2) 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 are not required to comply with the federal regulations adopted by or incorporated by reference in this administrative regulation.
(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 exclusively in intrastate commerce and exclusively in farm-to-market agricultural transportation 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, relative to lighting device requirements. They are, however, required to have two (2) stop lamps and mechanical turn signals as set forth in 49 CFR 393, Subpart B.
(d) Motor vehicles which are used exclusively in intrastate commerce and 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 relative to lighting devices requirements. They are, however, required to have two (2) stop lamps and mechanical turn signals as set forth in 49 CFR 393, Subpart B.
(e) Except for transporters of hazardous materials under 601 KAR 1:025, motor vehicle operators who are operating a vehicle on an intrastate commerce basis are not required to be twenty-one (21) years of age as set forth in 49 CFR 391.11(b)(1). However, they shall be at least eighteen (18) years of age [and have either a valid chauffeur's license or commercial drivers license as required by state law].

Section 3. 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, is

incorporated by reference for the purposes of application to 49 Code of Federal Regulations Parts 391-397.

Section 4. A summary of the content of each federal regulation governing motor carrier safety 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. Buses. Buses shall be maintained in a clean and sanitary condition so that the health of passengers will not be impaired. Seats shall 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 be acquainted with the routes traveled and schedules maintained, so that the passengers will not be subjected to unnecessary delays. All operators shall 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 be so placed as not to interfere with the driver or with the safety and comfort of passengers. These items shall 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.

Section 6. Overcrowding of Passenger Vehicles. No bus operated by an authorized carrier, except city or suburban buses, shall transport passengers in excess of its load limit. No passenger shall be permitted to occupy the rear door-well of any bus vehicle that is equipped with a rear door-well.

Section 7. Out of Service Sticker. If 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 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 a vehicle in violation of the out of service notice affixed to it shall constitute a separate violation of these regulations.

Section 8. Copies of all incorporated material may be viewed in the Transportation Cabinet, Department of Vehicle Regulation, Division of Motor Vehicle Enforcement, State Office Building, Frankfort, Kentucky 40622.

JEROME LENTZ, Acting Commissioner
MILO D. BRYANT, Secretary
APPROVED BY AGENCY: January 3, 1990
FILED WITH LRC: January 5, 1990 at 9 a.m.

PROPOSED AMENDMENTS RECEIVED THROUGH JANUARY 15, 1990

GENERAL GOVERNMENT CABINET
Kentucky Board of Pharmacy
(Proposed Amendment)

201 KAR 2:105. Licensing/drug distribution requirements [Permits] for drug manufacturers and wholesalers.

RELATES TO: KRS Chapter 315
STATUTORY AUTHORITY: KRS 315.010, 315.036, 315.191(1)
NECESSITY AND FUNCTION: [The purpose of this regulation is] To establish uniform procedures and fees for the registration of all drug manufacturers and wholesalers and to implement the provisions of the Federal Prescription Drug Marketing Act of 1987, U.S. P.L. 100-293, 102 Stat. 95, codified at 21 U.S.C. SS 321 et seq.; and to effect the federal act's requirement to license anyone in the wholesale distribution of prescription drugs. This applies to any person, partnership, corporation or other entity engaging in the wholesale distribution of prescription drugs within the Commonwealth.

Section 1. Definitions. (1) "Wholesale drug distributor" means anyone engaged in wholesale drug distribution except a common carrier or individual retained solely to transport them.

(2) "Wholesale drug distribution" means the transfer of legend drugs to persons other than consumers or patients, but shall not include:

(a) The sale, purchase, or trade of a legend drug, or offer of same:

1. By a charitable organization as described in Section 501(c)(3) of the U.S. Internal Revenue Code of 1954 to a nonprofit affiliate of the organization to the extent permitted by law;

2. By hospitals or other health-care entities under common control;

3. To alleviate emergency medical necessity or temporary shortage between pharmacies;

4. By a pharmacist dispensing pursuant to a valid prescription order.

(3) "Manufacturer" means anyone engaged in the commercial production, preparation, propagation, compounding, conversion or processing of a drug, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical synthesis, or both, and includes any packaging or repackaging or a drug or the labeling or relabeling of its container.

Section 2. Requirements. (1) Permit shall be acquired pursuant to KRS 315.036.

(2) A separate permit shall be required for each facility within the Commonwealth regardless of whether joint ownership or control exists.

(3) An agent or employee of a licensee need not seek licensure under this section when the agent or employee is acting in the usual course of business or employment.

(4) A permit shall not be issued or renewed unless the applicant demonstrates or continues to demonstrate acceptable operational procedures, including, but not limited to:

(a) Adequate maintenance and storage conditions to ensure proper lighting, ventilation, temperature and humidity control, sanitation, space, and security as deemed appropriate by the Kentucky Board of Pharmacy or as per label requirements or official United States Pharmacoepia (USP) compendium requirements;

(b) Separation of deteriorated, outdated, misbranded, adulterated or otherwise recalled merchandise;

(c) Providing accurate and precise records of all goods shipped or received including source/recipient, date, quantity, itemized description, and any other information pertinent to the transaction.

(d) All applicants for licensure as controlled substances wholesale drug distributors shall be registered with the state controlled substance authority, and with the U.S. Drug Enforcement Administration and comply with all DEA regulations.

(5) The Kentucky Board of Pharmacy may choose to adopt regulations to include out-of-state distributors or may reciprocally accept in lieu thereof licensure valid by a comparable authority equally recognizing Kentucky's requirements.

Section 3. [1.] Qualifications for Permits. (1) No permit shall be issued pursuant to this regulation unless [and until] the applicant has furnished proof satisfactory to the Board of Pharmacy:

(a) That the applicant is in compliance with all applicable federal and state laws and regulations relating to drugs and is of good moral character or if the applicant be an association or corporation that the managing officers are of good moral character; and

(b) That the applicant is equipped as to land, buildings, and security to properly carry on the business described in his application.

(2) A duly licensed manufacturer or wholesaler may sell [and/]or distribute federal legend drugs only to the following persons:

(a) A currently licensed manufacturer;
(b) A currently licensed wholesaler;
(c) A currently licensed pharmacy;
(d) A currently licensed practitioner;
(e) A currently licensed hospital, but only for use by or in that hospital;
(f) A person in charge of a laboratory, but only for use in that laboratory for scientific and medical research purposes.

(3) No permit shall be granted to any person who has been convicted of a misdemeanor involving any controlled substance or who has been convicted of any felony.

(4) A permit issued pursuant to this regulation may be suspended or revoked for cause.

Section 4. [2.] Permit Fees; Renewals. All applications for a permit under the provisions of this regulation shall be submitted to the Board of Pharmacy on forms furnished by it and shall contain such information as the board may require. Each application shall be accompanied by an annual fee of seventy-five (75) dollars. All permits shall expire on September 30 following date of issuance and be renewable annually thereafter upon proper application accompanied by the renewal fee of seventy-five (75) dollars and shall be nontransferable.

Section 5. Standards. (1) Facilities. All buildings in which legend drugs are wholesaled,

repackaged, stored, held, sold, offered for sale, exposed for sale, or kept for sale shall be of suitable size, construction, and location to facilitate cleaning, maintenance, and proper operations. Buildings shall meet all applicable federal, state, and local standards. A facility shall not be located in a residence.

(2) Security.

(a) All wholesale drug distribution centers shall be equipped with an internal alarm system to detect entry after hours.

(b) Wholesale drug distributors shall ensure that access from outside their premises is reduced to a minimum. This includes, but is not limited to, the installation of adequate lighting at the outside perimeter of the premises.

(c) Internal security policies shall be developed to provide reasonable protection against theft by personnel. These policies shall provide protection against computer theft and crimes.

(3) Recordkeeping.

(a) Inventories and other records of transactions regarding the receipt and disposition of legend drugs shall be maintained and made available for inspection by authorized inspectors for a period of two (2) years. These records shall contain source of supply (items received, quantity, and date) and distribution (items distributed, quantity, and date).

(b) Records may be kept at a central location rather than at each distribution center, but records shall be made available for inspection within seventy-two (72) hours of request by authorized inspectors.

(4) Written policies and procedures.

(a) There shall be written policies and procedures to assure that the wholesale drug distributor prepares for, protects against, and handles crisis situations that affect the security or operation of the facility. Such crises shall include fires, floods, or other natural disasters, and situations of local, state, or national emergency.

(b) There shall be written policies and procedures for managing and correcting all errors or inaccuracies in inventories.

(c) There shall be written policies and procedures to assure that any outdated stock or any stock with an expiration date that, in the wholesale drug distributor's view, does not allow sufficient time for repacking or resale shall be segregated from other stock and shall be prepared for return to the manufacturer or otherwise destroyed, and this shall be documented.

(d) There shall be written policies and procedures by which the wholesaler drug distributor exercises control over the shipping and receiving of all stock within the operation.

(5) Returned goods. A wholesale operation shall maintain and follow a written procedure to assure the proper handling and disposal of returned goods.

(6) Handling recalls. A wholesale operation shall maintain and follow written policy for handling recalls and withdrawals of products. The policy shall cover all recalls and withdrawals of drug products due to:

(a) Any voluntary action on the part of the manufacturer;

(b) The direction of the Food and Drug Administration, or any other federal, state, or local government agency; and

(c) Replacement of existing merchandise with an improved product or new package design.

Section 6. Inspection Powers of the Kentucky Board of Pharmacy. (1) The Kentucky Board of Pharmacy shall make rules and regulations as may be necessary to carry out the purpose and enforce the provisions of this regulation. All rules and regulations promulgated shall conform to and not conflict with the wholesaler drug distribution guidelines adopted by the U.S. Food and Drug Administration.

(2) Any person authorized by the Kentucky Board of Pharmacy is hereby given right of entry for inspection purposes during normal business hours upon all premises purporting or appearing to be used by a drug manufacturer or wholesaler.

Section 7. Violations. (1) It shall be a violation of these rules for a drug manufacturer or wholesaler to distribute legend drugs directly to a consumer or a patient or to operate in a manner that endangers the public health.

(2) Violation of any of these provisions shall be grounds for the suspension or revocation of the permit.

RALPH G. DEITEMEYER, President

APPROVED BY AGENCY: January 10, 1990

FILED WITH LRC: January 11, 1990 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 21, 1990 at 3 p.m., EST at the Office of the Kentucky Board of Pharmacy, 1228 U.S. 127 South, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1990, 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 with to attend the public hearing, you may submit written comments on the proposed amendments to the administrative regulation. Send written notification of intent to attend the public hearing or to provide written comments on the proposed administrative regulation to: Richard L. Ross, Executive Director, Kentucky Board of Pharmacy, 1228 U.S. 127 South, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Richard L. Ross, R.Ph.

(1) Type and number of entities affected: 42 currently licensed drug wholesalers/manufacturers in the Commonwealth.

(a) Direct and indirect costs or savings to those affected: No additional direct or indirect costs would be involved to those 42 licensed wholesalers/manufacturers currently licensed by the Kentucky Board of Pharmacy here in the Commonwealth.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition): As in (1)(a) no increasing costs and no effect on competition.

(b) Reporting and paperwork requirements: No additional reporting or paperwork.
(2) Effects on the promulgating administrative body: Would allow uniform requirements for all persons engaged in the wholesaling/manufacturing of legend drugs in the Commonwealth. Would allow compliance with federal requirements for these entities.
(a) Direct and indirect costs or savings: No direct or indirect costs or savings.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: No additional reporting or paperwork.
(3) Assessment of anticipated effect on state and local revenues: No effect on state and local revenues.
(4) Assessment of alternative methods; reasons why alternatives were rejected: All that are currently licensed are meeting these requirements. Allows for specific uniform requirement for all licensees.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no 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: Changes being made to allow conformance with federal requirements.
TIERING: Was tiering applied? Yes.

GENERAL GOVERNMENT CABINET
Board of Hairdressers and Cosmetologists
(Proposed Amendment)

201 KAR 12:020. Examination.

RELATES TO: KRS 317A.010, 317A.020, 317A.050, 317A.100
STATUTORY AUTHORITY: KRS 317A.050
NECESSITY AND FUNCTION: KRS 317A.050 requires all students of cosmetology to register with the board when enrolling in a school of cosmetology.

Section 1. No graduate of any school of cosmetology licensed by this board shall [will] be accepted for apprentice examination who has not registered with the board at least ten (10) months and two (2) weeks prior to said examination. No graduate manicurist shall [will] be accepted for examination who has not registered with the board at least thirty-seven and one-half (37 1/2) days prior to examination.

Section 2. Applicants for licensure, that completed hours in another state, shall [must] submit a certification from the state board of the state in which the hours were obtained.

Section 3. No student or apprentice cosmetologist shall [will] be permitted to take the board's examination whose application completed in full, has not reached the office of the board at least ten (10) working days prior to the beginning date of examination.

Section 4. The board's examination shall [will] be given only to students who have been notified to appear for the examination and who are wearing a clean, washable uniform and who have with them a pencil for their written examination and instruments to be used by them in the giving of practical examination.

Section 5. The examination shall consist of both a written test and practical demonstration in subjects from the curriculum as specified. The practical demonstration shall be performed on a live female model.

Section 6. (1) An average grade of seventy (70) percent in theory and practical shall [will] be required as a passing grade on the board's apprentice examination. No license shall [will] be issued to an applicant, not including instructors, with a grade below seventy (70) percent in any one subject and applicant shall [must] submit to reexamination on subjects not successfully completed.
(2) Instructor's license shall [will] not be issued to any applicant receiving a grade below eighty (80) percent of written and eighty-five (85) percent on practical. Applicant shall [must] submit to reexamination on subjects not successfully completed.

Section 7. A student who practices cosmetology in a beauty salon prior to the apprentice examination given by the board shall [will] be considered ineligible to take the examination pending hearing before the board.

Section 8. A bulletin board shall [must] be provided by a school and the examination schedule shall [must] be conspicuously displayed thereon at all times.

Section 9. Applicants successfully completing the state board examinations shall [must] buy their licenses within thirty (30) days following their examination. Failure to purchase said license shall [will] require the paying of the appropriate restoration fee as required by KRS 317A.050.

Section 10. The fee accompanying an application shall [will] not be refunded unless the application is rejected by the board.

Section 11. Any applicant who fails the state board examinations may be rescheduled for examination during any examination period provided all qualifications are met.

Section 12. Any applicant who fails any phase of the state board examination and waits over ninety (90) days to retake the examination shall [must] file another application.

PAT WILSON, Chairman
APPROVED BY AGENCY: December 5, 1989
FILED WITH LRC: January 3, 1990 at 4 p.m.
PUBLIC HEARING: A public hearing has been scheduled on February 27, 1990 at 3 p.m. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Carroll Roberts, Administrator, 314 West Second Street, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Greg Holmes
(1) Type and number of entities affected: 18,000 licensees.
(a) Direct and indirect costs or savings to those affected: Minimal
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: Minimal
(2) Effects on the promulgating administrative body: Minimal
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: N/A
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? Not applicable because there is only one classification of persons to which this regulation applies.

GENERAL GOVERNMENT CABINET
Board of Hairdressers and Cosmetologists
(Proposed Amendment)

201 KAR 12:025. Additional study after failing examination.

RELATES TO: KRS 317A.050
STATUTORY AUTHORITY: KRS 317A.050
NECESSITY AND FUNCTION: Applicants failing the state board examination may require additional study in those areas failed.

Section 1. An applicant for apprentice cosmetologist's license who does not pass the apprentice examination conducted by the board may complete a further course of study in a licensed school of cosmetology on the subject or subjects failed. A reenrollment application shall [must] be filed in the office of the board and a certification of additional hours completed shall [must] accompany application for reenrollment.

Section 2. An applicant for instructor's license who does not pass the instructor's examination conducted by the board may complete a further course of study in a licensed school of cosmetology on the subject or subjects failed. A reenrollment application shall [must] be filed in the office of the board and a certification of additional hours completed shall [must] accompany application for reenrollment.

Section 3. An applicant failing the apprentice cosmetologist, regular cosmetologist, instructor, or manicurist examination, may retake the examination three (3) times within a twelve (12) month period without paying an additional fee. The appropriate statutory fee shall [will] be required for every three (3) failures.

PAT H. WILSON, Chairman
APPROVED BY AGENCY: December 5, 1989
FILED WITH LRC: January 3, 1990 at 4 p.m.
PUBLIC HEARING: A public hearing has been scheduled on February 27, 1990 at 3 p.m. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Carroll Roberts, Administrator, 314 West Second Street, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Greg Holmes
(1) Type and number of entities affected: 18,000 licensees.
(a) Direct and indirect costs or savings to those affected: Minimal
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: Minimal
(2) Effects on the promulgating administrative body: Minimal
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: N/A
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? Not applicable because there is only one classification of persons to which this regulation applies.

GENERAL GOVERNMENT CABINET
Board of Hairdressers and Cosmetologists
(Proposed Amendment)

201 KAR 12:031. Replacement of license; duplicate license.

RELATES TO: KRS 317A.050
STATUTORY AUTHORITY: KRS 317A.060
NECESSITY AND FUNCTION: Licenses shall [must] be posted to aid the board members and salon inspectors in conducting their inspections.

Section 1. In the event a license is lost, destroyed or stolen after issuance, a duplicate license shall be issued to the licensee. The

licensee shall [must] file a statement verifying the loss of the license and each duplicate license shall be indicated "duplicate."

PAT WILSON, Chairman
APPROVED BY AGENCY: December 5, 1989
FILED WITH LRC: January 3, 1990 at 4 p.m.
PUBLIC HEARING: A public hearing has been scheduled on February 27, 1990 at 3 p.m. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Carroll Roberts, Administrator, 314 West Second Street, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Greg Holmes
(1) Type and number of entities affected: 18,000 licensees.
(a) Direct and indirect costs or savings to those affected: Minimal
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: Minimal
(2) Effects on the promulgating administrative body: Minimal
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: N/A
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? Not applicable because there is only one classification of persons to which this regulation applies.

GENERAL GOVERNMENT CABINET
Board of Hairdressers and Cosmetologists
(Proposed Amendment)

201 KAR 12:040. Apprentices; ratio to operators.

RELATES TO: KRS 317A.030, 317A.060
STATUTORY AUTHORITY: KRS 317A.050
NECESSITY AND FUNCTION: KRS 317A.050 requires an apprentice cosmetologist to work six (6) months under the supervision of a licensed cosmetologist.

Section 1. (1) Salons employing apprentice cosmetologists shall maintain the following ratio:
(a) Two (2) apprentice cosmetologists to one (1) cosmetologist.
(b) Three (3) apprentice cosmetologists to two (2) cosmetologists.
(c) Four (4) apprentice cosmetologists to three (3) cosmetologists.
(2) Any salon employing more than four (4) apprentice cosmetologists shall maintain an equal ratio of one (1) apprentice cosmetologist per cosmetologist.

Section 2. A licensed cosmetologist shall [must] be available for immediate supervision any time an apprentice cosmetologist provides any service relating to the practice of cosmetology.

PAT WILSON, Chairman
APPROVED BY AGENCY: December 5, 1989
FILED WITH LRC: January 3, 1990 at 4 p.m.
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REGULATORY IMPACT ANALYSIS

Agency Contact Person: Greg Holmes
(1) Type and number of entities affected: 18,000 licensees.
(a) Direct and indirect costs or savings to those affected: Minimal
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: Minimal
(2) Effects on the promulgating administrative body: Minimal
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: N/A
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? Not applicable because there is only one classification of persons to which this regulation applies.

GENERAL GOVERNMENT CABINET
Board of Hairdressers and Cosmetologists
(Proposed Amendment)

201 KAR 12:045. Apprentice, manicurist and instructor's licensing.

RELATES TO: KRS 317A.050
STATUTORY AUTHORITY: KRS 317A.050
NECESSITY AND FUNCTION: Applicants for apprentice, manicurist and instructor examination shall [must] complete a statutory

number of hours prior to examination and purchase license on successful completion of examination.

Section 1. All applications for apprentice, manicurist, and instructor examinations shall [must] be accompanied by a notarized certification of hours from the school the students attended.

Section 2. An apprentice shall [must] apply for his regular license no sooner than six (6) months and no longer than eighteen (18) months after passing the apprentice examination. Any extension of this period of time to be granted at the discretion of the board.

Section 3. An apprentice instructor shall [must] apply for his instructor license no sooner than six (6) months and no longer then twenty-four (24) months after receiving apprentice instructor license. Any extension of this period of time to be granted at the discretion of the board.

PAT WILSON, Chairman
APPROVED BY AGENCY: December 5, 1989
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REGULATORY IMPACT ANALYSIS

Agency Contact Person: Greg Holmes
(1) Type and number of entities affected: 18,000 licensees.
(a) Direct and indirect costs or savings to those affected: Minimal
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: Minimal
(2) Effects on the promulgating administrative body: Minimal
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: N/A
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? Not applicable because there is only one classification of persons to which this regulation applies.

GENERAL GOVERNMENT CABINET
Board of Hairdressers and Cosmetologists
(Proposed Amendment)

201 KAR 12:050. Reciprocity for valid licensee.

RELATES TO: KRS 317A.100
STATUTORY AUTHORITY: KRS 317A.060
NECESSITY AND FUNCTION: KRS Chapter 317A authorizes the Kentucky State Board of Hairdressers and Cosmetologists to prescribe rules and regulations governing health and safety of the public; governing the training and supervision of cosmetologists; and governing the examinations for applicants for licenses. This regulation is to allow applicants from other states with less than 1,800 hours to qualify for examination in order to obtain licenses.

Section 1. Any applicant from out-of-state, who holds a valid license and who can show proof of two (2) years current experience, can come before the state board for examination (practical only) by paying the fee as set forth in KRS 317A.050 plus the fee set forth in KRS 317A.050 for first license.

Section 2. Applicants shall [must] provide a certification from state board granting original license and proof of two (2) years high school education or its equivalent.

PAT WILSON, Chairman
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REGULATORY IMPACT ANALYSIS

Agency Contact Person: Greg Holmes
(1) Type and number of entities affected: 18,000 licensees.
(a) Direct and indirect costs or savings to those affected: Minimal
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: Minimal
(2) Effects on the promulgating administrative body: Minimal
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: N/A
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to

harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? Not applicable because there is only one classification of persons to which this regulation applies.

GENERAL GOVERNMENT CABINET
Board of Hairdressers and Cosmetologists
(Proposed Amendment)

201 KAR 12:055. Instructor's license for out-of-state applicant.

RELATES TO: KRS 317A.050, 317A.100
STATUTORY AUTHORITY: KRS 317A.050, 317A.100
NECESSITY AND FUNCTION: Out-of-state applicants for instructor's licenses shall [must] meet the same or similar requirements of resident instructors.

Section 1. Any applicant from out-of-state who holds a current instructor of cosmetology license and who can show proof of two (2) years current experience as a licensed instructor and proof of the statutory educational requirements can come before the state board for examination (science and practical) by paying the statutory nonresident instructor fee. After passing the prescribed examination for instructors, applicants shall [must] pay the examination fee as set forth in KRS 317A.050 for regular cosmetologists and first cosmetology license fee as set forth in KRS 317A.050 before the first instructor license may be issued at the fee set forth in KRS 317A.050.

PAT WILSON, Chairman
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REGULATORY IMPACT ANALYSIS

Agency Contact Person: Greg Holmes
(1) Type and number of entities affected: 18,000 licensees.
(a) Direct and indirect costs or savings to those affected: Minimal
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: Minimal
(2) Effects on the promulgating administrative body: Minimal
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: N/A
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? Not applicable because there is only one classification of persons to which this regulation applies.

GENERAL GOVERNMENT CABINET
Board of Hairdressers and Cosmetologists
(Proposed Amendment)

201 KAR 12:060. Inspections.

RELATES TO: KRS 317A.050, 317A.060
STATUTORY AUTHORITY: KRS 317A.060
NECESSITY AND FUNCTION: Establishments licensed by this board require periodic inspections to insure compliance of the statutes and regulations of the board. Posting of the licensees' pictures with their licenses aids the inspector and board members in determining the validity of each license of the personnel.

Section 1. Any board member, the administrator and inspectors shall be allowed to enter any establishment licensed by this board or any place purported to be practicing cosmetology at any reasonable hour for the purpose of determining if the individuals are complying with the statutes and regulations of the board.

Section 2. Each licensee shall [must] attach his picture to his license and place same in a conspicuous area in the salon or school.

Section 3. Any salon closing for business but maintaining yearly license renewal shall be considered an inactive salon and shall remain same provided plumbing and equipment is not removed. Said salon shall be inspected periodically. Any salon removing equipment and plumbing shall be considered out of business and said license voided.

Section 4. All establishments licensed by this board shall be inspected a minimum of two (2) times per year.

PAT WILSON, Chairman
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REGULATORY IMPACT ANALYSIS

Agency Contact Person: Greg Holmes
(1) Type and number of entities affected: 18,000 licensees.
(a) Direct and indirect costs or savings to those affected: Minimal
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing

costs (note any effects upon competition):
(b) Reporting and paperwork requirements: Minimal
(2) Effects on the promulgating administrative body: Minimal
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: N/A
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? Not applicable because there is only one classification of persons to which these regulations apply.

GENERAL GOVERNMENT CABINET
Board of Hairdressers and Cosmetologists
(Proposed Amendment)

201 KAR 12:065. Inspection of new, relocated and change of owner salons.

RELATES TO: KRS 317A.050, 317A.060
STATUTORY AUTHORITY: KRS 317A.060
NECESSITY AND FUNCTION: Any business seeking licensing by this board shall [must] meet various city, county and state zoning laws, building and plumbing codes, as well as inspection by board personnel. This board does not issue a dual license for barber shops and beauty salons.

Section 1. All new beauty salons and all beauty salons moving to a new location shall [must] complete an application furnished by the board.

Section 2. All new beauty salons, all beauty salons moving to a new location, and all beauty salons changing owners shall notify the board five (5) days before opening for business of the new location, date on which the salon is to be opened for business and name of the owner and/or manager of the salon.

Section 3. All new beauty salons and all beauty salons moving to a new location shall be inspected by an inspector employed by the board before issuance of license. No salon shall open for business prior to issuance of a salon license.

Section 4. All new beauty salons and all beauty salons moving to a new location shall [must] comply with all city, county, and state zoning, building and plumbing laws, regulations and codes.

Section 5. (1) Except as provided by subsection (2) of this section, all beauty salons shall be separated from all barber shops by a soundproof partition extending to the ceiling and each facility shall have its own individual entrance.
(2) The provisions of subsection (1) of this section do not apply to a nursing home if it:
(a) Has obtained a salon license from the board; and
(b) The practice of barbering does not occur at the same time as the practice of cosmetology.
(3) If the provisions of subsection (2) of this section have been met, a cosmetologist may engage in the practice of cosmetology on the premises of a nursing home in the same facility established by the nursing home for the practice of barbering.

Section 6. Any salon located in a residence shall have an outside entrance.

PAT WILSON, Chairman
APPROVED BY AGENCY: December 5, 1989
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REGULATORY IMPACT ANALYSIS

Agency Contact Person: Greg Holmes
(1) Type and number of entities affected: 18,000 licensees.
(a) Direct and indirect costs or savings to those affected: Minimal
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: Minimal
(2) Effects on the promulgating administrative body: Minimal
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: N/A
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? Not applicable because there is only one classification of persons to which this regulation applies.

GENERAL GOVERNMENT CABINET
Board of Hairdressers and Cosmetologists
(Proposed Amendment)

201 KAR 12:082. School's course of instruction.

RELATES TO: KRS 317A.060, 317A.090
STATUTORY AUTHORITY: KRS 317A.050
NECESSITY AND FUNCTION: Schools shall [must] provide a course of instruction of 1,800 hours of student training. The curriculum prepares the individual for examination for the appropriate license.

Section 1. The regular courses of instruction for cosmetology students shall contain the following:
(1) Professional practices.
(a) The cosmetology profession.
1. Cosmetology vocabulary.
2. Brief history: how it began, and changes.
3. Ethics: ethics in a beauty salon; and salon conduct.
(b) Salon procedures.
1. Hygiene and good grooming: personal and public; personal characteristics; and responsibilities of the cosmetologists.
2. Professional attitudes and salesmanship; personality development; salesmanship and business management; customer relationship; and telephone personality.
3. Public relations and psychology: behavior; and proper image.
(c) Specialty services.
1. Facial treatments and make-up: facial treatment/make-up preparation; implements and supplies; procedure in giving a plain facial; purpose and effect of message movements; facial cosmetics; special problems; eyebrow arching; and lash and brow dye.
2. Manicuring: purpose and effect; preparation; equipment; and procedures, including the following: plain manicure, oil manicure, removal of stains, repair work, hand and arm message, buffing, application of lacquer, and application of artificial nails.
(2) Life sciences (general anatomy).
(a) Osteology: definition; and functions.
(b) Myology: definition; functions; and types.
(c) Neurology: definition; functions; types (motor and sensory); and principal nerves of the head, face and neck.
(d) Angiology: definition; composition of blood; and function of blood.
(e) Dermatology: structure of skin; functions of skin; appendages of skin; conditions of the skin; and lesions of the skin.
(f) Trichology: structure of hair; composition; blood and nerve supply; growth and regeneration; color, texture, elasticity, porosity; and conditions to be recognized.
(g) Nails: structure and composition; growth and regeneration; and irregularities.
(3) Physical sciences (chemistry and treatment).
(a) Chemistry.
1. Elements, compounds, and mixtures: properties of; acid and alkali; and chemistry of water.
2. Composition and uses of cosmetics: for the body; for the skin and face; and for the scalp and hair.
3. Chemistry of hair lightening.
4. Chemistry of hair coloring.
5. Chemical hair relaxing.
6. Chemistry of make-up.
7. Chemistry of facial treatments.
8. Chemistry of rinses: soaps and shampoos; and detergents.
9. Chemistry of cold waving.
(b) Scalp and hair treatments: purpose and effects; preparation and procedure; use of cap; electricity and therapeutic ray; and safety rules.
(c) Shampoos and rinses: importance of good shampoo; purpose of effects; required materials and implements; brushing and drying; types of shampoos; rinses (not colored); and composition.
(d) Hair coloring: principal reasons for coloring; advantages of coloring; classifications of hair coloring; variation of products; procedures; and safety measures.
(e) Hair lightening: types of lighteners; implements and supplies; procedure; special problems in hair lightening; fillers and toners; removal of aniline derivative tints; and tint back to natural coloring.
(f) Cold waving: basic requirements; scalp and hair analysis; hair porosity; hair texture; hair elasticity; hair density; curling rods and chemicals; variation of permanent wave products; procedures; problems; and safety measures.
(g) Sterilization and sanitation: definitions; importance; sterilization rules; and methods of sterilization.
(4) Hair designing or sculpturing.
(a) Hair shaping: fundamentals of hair shaping; correct use of tools; designing and planning the hair cut; sectioning and thinning; razor and shear shaping; wig shaping; and safety precautions.
(b) Hair styling: finger waving; pin curls; hair partings; artistry hair styling; dressing of the coiffure; special consideration in hair styling; chemical hair relaxing and styling; facial types; and hair pressing and types of hot-iron curling.
(c) Care and styling of wigs: purpose; quality; types of wigs; ordering wigs; cleaning; shaping; tinting and color rinsing; setting; and safety precautions.

Section 2. Schools shall [must] teach the students of the various supplies and equipment used in the usual salon practices.

Section 3. Schools shall [must] have the following charts or visual aids available for students' use:
(1) Charts or visual aids showing anatomy of muscles of face and neck with special reference to the direction of muscle fibers and function of muscle or groups of muscles;
(2) Charts or visual aids showing anatomy of nails.

Section 4. All students shall receive not less than 1,800 hours in clinical class work and scientific lectures with 450 minimum lecture hours for science and theory and 1,305 minimum clinic and practice hours; and forty-five (45) hours of Kentucky statutes and regulations.

Section 5. One (1) hour per week shall [should] be devoted to the teaching and explanation of the Kentucky law as set forth in KRS Chapter 317A and the rules and regulations of the board.

Section 6. No school of cosmetology shall be granted a license to operate a school of cosmetology or annual renewal of license unless the following curriculum is maintained and taught.
(1) Curriculum for freshmen students.
(a) Theory and related theory class, 100 hours.
1. General theory, including Kentucky cosmetology law and rules and regulations adopted thereunder.
2. Clinical theory.
3. Lecturing theory.
(b) Clinical and related theory class (freshman practice class on students or mannequins), 200 hours.
1. Cold waves.
2. Facials and make-up.
3. Complete "S" formations or complete finger waves.
4. Pin curl technique.
5. Hair shaping.
6. Hair styling techniques.
7. Lash and brow tint.
8. Eyebrow arches.
9. Manicuring.
10. Scalp treatments.
11. Shampooing.
12. Hair coloring, bleaching, and rinsing (mixing and formulas).
13. Heat permanent.
14. Safety measures.
(2) Curriculum for junior and senior students.
(a) Theory and related theory class, 500 hours.
(b) Professional practices, life sciences (general anatomy), physical sciences (chemistry and treatment), hair designing safety measures, Kentucky cosmetology laws and rules and regulations adopted thereunder.
(c) Clinical class, 1,000 hours.
1. Hair conditioning treatments.
2. Scalp treatments.
3. Hair shaping.
4. Shampoos.
5. Cold waves.
6. Chemical hair relaxing (permanent wave).
7. Complete "S" formation and complete finger waves.
8. Pin curl techniques.
9. Hair styles.
10. Iron curling.
11. Hair coloring and toning.
12. Bleaches and frostings.
13. Facials and make-up.
14. Manicuring.
15. Lash and brow tints.
16. Eyebrow arches.
17. Color rinses (certified color).
18. Wiggery.
19. Professional ethics and good grooming.
20. Salesmanship.
21. Reception desk and telephone answering.
22. Recordkeeping.
23. Dispensary (procedures for ordering supplies and retail merchandise).
24. Personality development.
25. Salon management.
26. Public relations.

Section 7. In addition to the regular course of instruction, cosmetology schools may [are permitted to] have one (1) related lecture and demonstration per month.

Section 8. Any time not utilized in theory or clinic work shall [must] be used for study periods or library work.

Section 9. Each school shall furnish reference books for students' use. Any recognized textbook relevant to the art of science of cosmetology and educational to the student is acceptable to the board.

Section 10. Students of cosmetology shall not be permitted to work on the public until they have completed 300 hours of instruction.

Section 11. Students of cosmetology may [will] be allowed eight (8) hours per day for two (2) out-of-school activities per 1,800 hours pertaining to the profession of cosmetology if reported to the board office on a standard form supplied by the board.

Section 12. Students of cosmetology may [will] be permitted to attend two (2) educational programs within their 1,800-hour course for eight (8) hours credit per day, if reported to the board office on a standard form supplied by the board.

Section 13. Copies of the Kentucky State Board of Hairdressers and Cosmetologists' statutes and regulations shall be made available to all students.

Section 14. Manicurist curriculum shall include the following:
(1) Science and theory; 100 hours.
(a) Equipment, sterilization, sanitation, public and personal hygiene safety measures, Kentucky cosmetology law and all rules and regulations adopted thereunder.
(b) Nail condition and manicure techniques.
(c) Hand and arm message.
(d) Science pertaining to areas of hands and arms.
(e) Personality, grooming, salon management, professional ethics, and cosmetic theory laws.
(2) Clinical; 200 hours.
(a) Oil and plain manicure.
(b) Nail polish changes, moons, half-moons, and tips.
(c) Hand and arm message.
(d) Safety measures.
(e) Care of equipment.
(f) Removal of stains.
(g) Repair work.
(h) Buffing.
(i) Application of lacquer.
(j) Application of artificial nails.

Section 15. The course of study and curriculum for an apprentice instructor shall include as minimums, with a total of 1,000 hours, the following:
(1) Orientation, fifteen (15) hours.
(2) Psychology of student training, fifty (50) hours.
(3) Introduction to teaching, thirty (30) hours.
(4) Good grooming and personality development, fifty (50) hours.
(5) Course outlining and development, forty (40) hours.
(6) Lesson planning, forty-five (45) hours.
(7) Teaching techniques (methods), eighty (80) hours.
(8) Teaching aids, audio-visual techniques, eight (80) hours.

(9) Demonstration techniques, fifty-five (55) hours.
(10) Examinations and analysis, sixty (60) hours.
(11) Classroom management, forty-five (45) hours.
(12) Recordkeeping, twenty-five (25) hours.
(13) Teaching observation, sixty-five (65) hours.
(14) Teacher assistant, ninety (90) hours.
(15) Pupil teaching (practice teaching), 270 hours.

Section 16. All student instructors shall [must] be under the immediate supervision and instruction of a licensed instructor at all times during the school day. No student instructor shall ever assume any of the duties and responsibilities of a licensed supervising instructor.

Section 17. All records of apprentice instructors' hours earned shall be recorded on a standard form supplied by the board office on or before the tenth day of each month.

Section 18. When permission of this board is given a student to enroll in a school for a special brush-up course in any of the following subjects, said student shall [will] be required to have a course of training of the following number of hours in the course or courses he or she desires to take:
(1) Permanent waving, and all chemical control, 150 hours.
(2) Manicuring, hand and arm message, and bleach, 100 hours.
(3) All iron curls, 100 hours.
(4) Facials, 125 hours.
(5) Hair coloring and bleaching, 150 hours.
(6) Scalp message, 25 hours.
(7) Hair shaping, trimming, and thinning, 125 hours.
(8) Science, 100 hours.
(9) Hair dressing and styling, 150 hours.

PAT WILSON, Chairman
APPROVED BY AGENCY: December 5, 1989
FILED WITH LRC: January 3, 1990 at 4 p.m.
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REGULATORY IMPACT ANALYSIS

Agency Contact Person: Greg Holmes
(1) Type and number of entities affected: 18,000 licensees.
(a) Direct and indirect costs or savings to those affected: Minimal
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: Minimal
(2) Effects on the promulgating administrative body: Minimal
(a) Direct and indirect costs or savings:
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2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: N/A
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? Not applicable because there is only one classification of persons to which these regulations apply.

GENERAL GOVERNMENT CABINET
Board of Hairdressers and Cosmetologists
(Proposed Amendment)

201 KAR 12:083. Educational requirements.

RELATES TO: KRS 317A.050, 317A.060, 317A.140
STATUTORY AUTHORITY: KRS 317A.060(h)
NECESSITY AND FUNCTION: Students enrolling in a school of cosmetology shall [must] show proof of educational requirements. Applicants for cosmetologist's license and manicurist's license shall [must] show proof of two (2) years high school or its equivalent. School owners are responsible for obtaining and forwarding student enrollment applications and proof of education to the board; if the board fails to receive said information from the school within ten (10) working days after the student date of enrollment, the school may be fined or its license suspended or revoked.

Section 1. Any person enrolling in a school of cosmetology shall [must] complete an application for enrollment provided by the board. The applicant shall [must] furnish proof that he or she has completed two (2) years of high school or its equivalent. The required proof shall be any one (1) of the following:
(1) A transcript of subjects and grades showing the applicant has completed grades nine (9) and ten (10);
(2) G.E.D. test indicating a minimum grade of thirty-nine (39);
(3) A notarized statement from the high school principal, counselor, or superintendent, stating that in their opinion the applicant has an educational equivalency of completing tenth grade. Said statement shall [must] be on school stationery;
(4) If the student has graduated from high school or completed the G.E.D. test for four (4) years high school, his or her diploma may be presented.

Section 2. The student enrollment application accompanied by the applicant's proof of education, shall [must] be received by the board no later than ten (10) working days after the student date of enrollment. No student shall [will] receive credit hours beyond the ten (10) day period. It is the responsibility of the school to forward to the board the enrollment application and proof of education so that the

board receives said information no later than ten (10) working days after the student date of enrollment; failure of the school to timely forward said information to the board may result in suspension or revocation of said school's license [and/]or a fine of twenty-five (25) dollars a day for every day the application is late.

Section 3. No person shall be permitted to enroll in a school of cosmetology for a brush-up course unless the applicant holds an unexpired and unrevoked license issued by this board. Said applicant shall [must] complete an application for enrollment and provide the necessary educational requirements in effect at the time of original licensure.

Section 4. Any person previously licensed by this board having an expired license shall be permitted to enroll in a school of cosmetology for a brush-up or refresher course upon obtaining special permission of the board. Said applicant shall [must] complete an application and provide the necessary educational requirements in effect at the time of original licensure.

Section 5. All schools of cosmetology shall [must] advise individuals enrolling in a school of cosmetology of the educational requirements of a tenth grade education or its equivalent to obtain an apprentice cosmetologist's license and the requirement of two (2) years high school or its equivalent to obtain a cosmetologist's license or a manicurist's license.

PAT WILSON, Chairman
APPROVED BY AGENCY: December 5, 1989
FILED WITH LRC: January 3, 1990 at 4 p.m.
PUBLIC HEARING: A public hearing has been scheduled on February 27, 1990 at 3 p.m. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Carroll Roberts, Administrator, 314 West Second Street, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Greg Holmes
(1) Type and number of entities affected: 18,000 licensees.
(a) Direct and indirect costs or savings to those affected: Minimal
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: Minimal
(2) Effects on the promulgating administrative body: Minimal
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: N/A
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? Not applicable because there is only one classification of persons to which these regulations apply.

GENERAL GOVERNMENT CABINET
Board of Hairdressers and Cosmetologists
(Proposed Amendment)

201 KAR 12:085. School advertising.

RELATES TO: KRS 317A.050
STATUTORY AUTHORITY: KRS 317A.050
NECESSITY AND FUNCTION: Schools advertise for student enrollments and services rendered.

Section 1. Schools shall not use deceptive statements and false promises which act as inducements in an effort to get students to enroll in said schools.

Section 2. A school of cosmetology shall [must] display in the reception room, clinic room, or any other area in which the public receives services a sign to read: "School of Cosmetology - Work Done by Students Only." The sign shall [must] be large enough to be read the length of the room in which sign is posted.

Section 3. No school is permitted to guarantee students' work.

Section 4. Schools are forbidden to guarantee future employment to students.

PAT WILSON, Chairman
APPROVED BY AGENCY: December 5, 1989
FILED WITH LRC: January 3, 1990 at 4 p.m.
PUBLIC HEARING: A public hearing has been scheduled on February 27, 1990 at 3 p.m. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Carroll Roberts, Administrator, 314 West Second Street, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Greg Holmes
(1) Type and number of entities affected: 18,000 licensees.
(a) Direct and indirect costs or savings to those affected: Minimal
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: Minimal
(2) Effects on the promulgating administrative body: Minimal
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state

and local revenues: N/A
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? Not applicable because there is only one classification of persons to which these regulations apply.

GENERAL GOVERNMENT CABINET
Board of Hairdressers and Cosmetologists
(Proposed Amendment)

201 KAR 12:100. Sanitation standards.

RELATES TO: KRS 317A.060
STATUTORY AUTHORITY: KRS 317A.130
NECESSITY AND FUNCTION: KRS 317A.060 authorizes the Kentucky State Board of Hairdressers and Cosmetologists to regulate the practice of cosmetology in Kentucky and establish uniform standards for sanitation.

Section 1. All establishments, including furniture, equipment, utensils, floors, walls, ceilings, restrooms and lavatories shall be kept in a clean and sanitary condition. Clean towels shall be provided for use of the patrons. The use in common of towels of any type is prohibited.

Section 2. Each student, apprentice cosmetologist, and cosmetologist shall have a sufficient number of combs and brushes at their disposal. Said combs and brushes shall [must] be sterilized after each use. No comb or brush shall be used in common on any patron. Any article dropped on the floor shall be disinfected before being used again.

Section 3. All water supply and waste connections shall be constructed in conformity with the city, county, and state plumbing statutes, regulations and code.

Section 4. A sufficient number of covered waste receptacles shall be provided in every establishment for disposal of trash and other waste.

Section 5. A protective covering shall [must] be placed around the patron's neck so the cape does not come into contact with the nude skin. The protective covering shall [must] be discarded after each use.

Section 6. The Cabinet for Human Resources, Department for Health Services, has approved the following methods of disinfection.
(1) Dry disinfection. The use of Formalin and ultraviolet rays are considered acceptable methods of dry disinfection provided labels and manufacturer's directions are followed.
(2) Liquid disinfection.
(a) A ten (10) percent solution of Formalin is satisfactory for disinfection of all equipment. Formalin does not attack copper, nickel, zinc, or other metal substances.
(b) A seventy (70) percent solution of alcohol is an effective disinfectant for cleaning equipment.
(c) Any other liquid disinfectant approved by the Cabinet for Human Resources will be acceptable, provided labels and manufacturer's directions are followed.

Section 7. Use of brush rollers are prohibited in any establishment licensed by this board.

Section 8. (1) The following grading shall be used for the inspection of any salon or school of cosmetology: 100%-90% = A; 89%-80% = B; 79%-70% = C.
(2) Any standard of less than an "A" rating will indicate failure to comply with the statutes and regulations of the board.

PAT WILSON, Chairman
APPROVED BY AGENCY: December 5, 1989
FILED WITH LRC: January 3, 1990 at 4 p.m.
PUBLIC HEARING: A public hearing has been scheduled on February 27, 1990 at 3 p.m. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Carroll Roberts, Administrator, 314 West Second Street, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Greg Holmes
(1) Type and number of entities affected: 18,000 licensees.
(a) Direct and indirect costs or savings to those affected: Minimal
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: Minimal
(2) Effects on the promulgating administrative body: Minimal
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: N/A
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? Not applicable because there is only one classification of persons to which these regulations apply.

GENERAL GOVERNMENT CABINET
Board of Hairdressers and Cosmetologists
(Proposed Amendment)

201 KAR 12:101. Equipment sanitation.

RELATES TO: KRS 317A.130
STATUTORY AUTHORITY: KRS 317A.060
NECESSITY AND FUNCTION: Cosmetology schools and beauty salons shall [must] maintain standards of sanitation to protect the health and safety of the general public.

Section 1. All implements, tools and equipment shall [must] be cleaned and sterilized before using.

Section 2. [No] Combs or brushes shall not [may] be used on more than one (1) person without first cleaning and sterilizing.

Section 3. Individual towels, neckbands, or strips shall [must] be placed upon the patron's neck before putting on the neck cloth or cape.

Section 4. Clean towels or tissues shall [must] be placed on the headrest of each facial chair before giving a facial.

Section 5. All instruments shall [must] be kept in a closed sterilizing container when not in use.

Section 6. All student kits shall [must] contain an approved method of sterilization and kept closed when not in use.

Section 7. All creams, lotions, tonics, shampoos, and other liquids shall [must] be kept covered when not in use.

Section 8. Covered containers shall [must] be supplied for disposal of waste.

Section 9. Floors, walls, furniture, and fixtures shall [must] be kept clean at all times.

Section 10. All bowls and basins shall [must] be kept clean at all times.

Section 11. All glass and other metallic electrodes shall [must] be sterilized between patrons.

Section 12. [No] Treatment of any kind shall not [may] be given to any person known to have an infectious or contagious disease of any nature. [No] Persons having any infectious or contagious disease shall not [may] operate or be permitted to remain in a beauty school.

Section 13. All creams shall [must] be removed from the container by a disposable spatula or sterile spoon and any unused cream remaining thereon shall [may] not be replaced in the container or used on any other person.

Section 14. Any comb, brush, implement, or other instruments that are dropped on the floor shall [must] be washed, disinfected and placed in a sterilizer.

Section 15. [No] Combs, brushes, tweezers, shears, razor, or other implements shall not [may] be kept in the pockets of the students or licensees.

Section 16. [No] Towels shall not [may] be used more than once without being laundered. The drying of towels on lines, radiators, or steam pipes for use on patrons is prohibited. Dipping used towels into a receptacle containing hot water and using the same on patrons is prohibited.

Section 17. Each licensed place of business shall provide an appropriate space in which to keep all linens sanitized.

PAT WILSON, Chairman
APPROVED BY AGENCY: December 5, 1989
FILED WITH LRC: January 3, 1990 at 4 p.m.
PUBLIC HEARING: A public hearing has been scheduled on February 27, 1990 at 3 p.m. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Carroll Roberts, Administrator, 314 West Second Street, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Greg Holmes
(1) Type and number of entities affected: 18,000 licensees.
(a) Direct and indirect costs or savings to those affected: Minimal
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: Minimal
(2) Effects on the promulgating administrative body: Minimal
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: N/A
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? Not applicable because there is only one classification of persons to which these regulations apply.

GENERAL GOVERNMENT CABINET
Board of Chiropractic Examiners
(Proposed Amendment)

201 KAR 21:015. Code of conduct.

RELATES TO: KRS 312.019
STATUTORY AUTHORITY: KRS 312.019
NECESSITY AND FUNCTION: KRS 312.019(9) provides that the board may adopt and from time

to time amend administrative regulations and that it may adopt a code of ethical conduct governing the practice of chiropractic. This regulation is to delineate the minimum standards of professional and ethical conduct which all licensees shall maintain.

Section 1. All licensees shall abide by the following minimum standards of professional and ethical conduct:

(1) A licensee shall keep in confidence whatever he[/she] may learn about a patient in the discharge of professional duties. Information shall be divulged by him[/her] when required by law and [may be divulged] when authorized by a patient.

(2) A licensee shall give a candid account of a patient's condition to him[/her] or to those responsible for his[/her] care.

[(3) The relationship between a chiropractor and his/her patient must be founded upon mutual trust, cooperation and respect. Both must have complete freedom of choice. A patient must have freedom to choose a chiropractor. A chiropractor must have freedom to choose the patients whom he/she will serve. In emergencies, a chiropractor should make his/her services available in situations where he/she can be of assistance.]

(3) [(4)] A licensee shall give timely notice to his[/her] patient or to those responsible for a patient's care when he[/she] withdraws from a case so that another chiropractor may be obtained.

(4) [(5)] A licensee is never justified in abandoning a patient.

(5) [(6)] A licensee shall practice his[/her] profession in accordance with the provisions of KRS Chapter 312 and the board's regulations. He[/she] shall avoid professional association with individuals or groups who do not practice according to such statutes and regulations.

[(7) A licensee should join and actively support recognized national, state and local bodies representing the chiropractic profession and abide by their rules and regulations.]

(6) [(8)] A licensee shall not:

(a) Solicit patients directly, indirectly or through an agent;

(b) Advertise his[/her] services except as provided by these regulations; or

(c) [nor shall he/she] Associate with or aid in any manner individuals or groups who [which] engage in contrary practices.

(7) [(9)] A licensee shall not be identified in any manner with testimonials for proprietary products or devices advertised or sold directly to the public.

(8) [(10)] A licensee shall not hold forth, advertise or indicate possession of any degree or specialty unless he[/she] is licensed by the board in such specialty.

(9) [(11)] A licensee shall obtain consultation if [whenever] requested to do so by a patient. He shall [/she should] not hesitate to seek consultation when he[/she] believes it to be advisable.

(10) [(12)] In any dispute between or among chiropractors involving matters of ethics, the matter in controversy shall be referred to the board for comment.

(11) [(13)] In any dispute between or among chiropractors regarding the diagnosis [and/]or treatment of a patient, the attending chiropractor has the responsibility for final decision.

(12) [(14)] A licensee shall not comment directly or indirectly on professional services rendered by another chiropractor except:

(a) Before duly constituted professional bodies of inquiry or judicial proceedings;

(b) When he[/she] is consulted by a patient of another chiropractor for diagnosis [and/]or treatment and then only to the extent necessary to properly advise such patient.

(13) [(15)] Illegal, unethical and incompetent conduct by licensees shall be reported to the board.

(14) A licensee shall charge only reasonable fees.

[(16) Any fee charged by a licensee shall be reasonable.]

(15) [(17)] No division of any professional fee shall be made except upon the basis of actual services rendered.

(16) [(18)] A licensee shall not pay or receive compensation for the referral of patients.

Section 2. The enumeration of the standards in Section 1 of this regulation is not exhaustive of all of the standards of professional and ethical conduct expected of a licensee. The failure to mention a standard shall not be deemed to be a determination by the board that it does not exist.

HAROLD BYERS, D.C., President

APPROVED BY AGENCY: January 12, 1990

FILED WITH LRC: January 15, 1990 at noon

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 21, 1990 at 1 p.m. (EST), at the Office of the Attorney General, Suite 18, Capitol Building, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1990, 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: Conley C. Congleton, Assistant Attorney General, Suite 18, Capitol Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Beverley White

(1) Type and number of entities affected: State Board and Kentucky licensees.

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

1. First year: Not remarkable.

2. Continuing costs or savings: Not remarkable.

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

(b) Reporting and paperwork requirements: Not remarkable.

(2) Effects on the promulgating administrative body: Not remarkable.

(a) Direct and indirect costs or savings:
1. First year: Not remarkable.
2. Continuing costs or savings: Not remarkable.
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: Not remarkable.
(3) Assessment of anticipated effect on state and local revenues: Not remarkable.
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. Regulations pertain to all D.C.s.

GENERAL GOVERNMENT CABINET
Board of Chiropractic Examiners
(Proposed Amendment)

201 KAR 21:025. Board; officers, duties.

RELATES TO: KRS 312.019, 312.055
STATUTORY AUTHORITY: KRS 312.019
NECESSITY AND FUNCTION: KRS 312.055 provides for the election of certain officers by the board. KRS 312.019(6) provides that the board may employ [such] personnel and incur [such] expenses [as may be] necessary for the performance of its duties.

Section 1. The board shall elect from its members a president, a vice president and an executive secretary who shall perform the following duties:
(1) The president shall be the chief executive of the board. He[/she] shall preside over all meetings of the board.
(2) The vice president shall perform the duties of the president during his[/her] absence or inability to serve. He[/she] shall perform [such] other reasonable duties [as are] delegated to him[/her] by the president or by the board.
(3) The executive secretary shall:
(a) Accurately record and keep in permanent form the minutes of all meetings of the board.
(b) Keep an accurate and up-to-date file of all licensees of the board, including their addresses and telephone numbers; their status as to whether or not they are in active practice or are inactive; in practice in this state or out of it; their record of attendance at educational programs; a record of all fees paid by licensees; and communicate to the board, at least once each year, the names of licensees who are delinquent in the payment of fees or [for] attendance of educational programs.
(c) Transmit notices for renewal of licenses as provided by KRS 312.075(2).
(d) Transmit notices of special meetings of the board.
(e) Attend to the correspondence and communications of the board.
(f) Perform [such] other reasonable duties [as are] delegated to him[/her] by the president or by the board.

Section 2. The board may employ a field coordinator and a secretary as a part of the regular staff of the board. They shall be paid [such] salary as the board may determine from time to time. They shall perform the following duties:
(1) The field coordinator, who may be a member of the board except that the president or executive secretary shall [may] not serve as field coordinator, shall:
(a) Investigate complaints against licensees referred to him[/her] by the board for investigation and report his[/her] findings to the board. (If the field coordinator is a board member, he[/she] shall not vote on any matter relative to formal or informal complaints against any licensee when any of the charges were investigated by him[/her] in the capacity of field coordinator.)
(b) Perform [such] other reasonable duties as are delegated to him[/her] by the president or by the board.
(c) If the field coordinator is a member of the board, following his appointment as field coordinator [/her election], he[/she] shall serve until the conclusion of his[/her] term of appointment as a member of the board. A member who has been appointed to the position of field coordinator, who is reappointed to the board following the expiration of his[/her] original term, shall hold over in the position of field coordinator until a successor is appointed [elected], accepts and assumes the duties of the position. A person appointed as field coordinator may be reappointed by the board to the [such] position.
(2) The secretary shall assist the president and the executive secretary in the performance of their duties and shall perform [such] other reasonable duties [as are] assigned by the president, the executive secretary or [by] the board.

Section 3. A member elected as president, vice president or executive secretary shall serve in [such] office until the conclusion of his[/her] term as a member. A member [who has been] elected to an office who is reappointed to the board shall hold the [over in such] office until a successor is elected, accepts and assumes the duties of the office. An officer may be reelected by the board.

HAROLD BYERS, D.C., President
APPROVED BY AGENCY: January 12, 1990
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 21, 1990 at 1 p.m. (EST), at the Office of the Attorney General, Suite 18, Capitol Building, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1990, 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: Conley C. Congleton, Assistant Attorney General, Suite 18, Capitol Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Beverley White
(1) Type and number of entities affected: State Board and Kentucky licensees.
(a) Direct and indirect costs or savings to those affected:
1. First year: Not remarkable.
2. Continuing costs or savings: Not remarkable.
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: Not remarkable.
(2) Effects on the promulgating administrative body: Not remarkable.
(a) Direct and indirect costs or savings:
1. First year: Not remarkable.
2. Continuing costs or savings: Not remarkable.
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: Not remarkable.
(3) Assessment of anticipated effect on state and local revenues: Not remarkable.
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. Regulations pertain to all D.C.s.

GENERAL GOVERNMENT CABINET
Board of Chiropractic Examiners
(Proposed Amendment)

201 KAR 21:031. Board meetings.

RELATES TO: KRS 312.019, 312.065
STATUTORY AUTHORITY: KRS 312.019
NECESSITY AND FUNCTION: KRS 312.065 provides for meetings of the board. The purpose of this regulation is to provide for the holding of sufficient meetings to transact the business of the board; to guarantee adequate notice of meetings; and to provide for the orderly transaction of business.

Section 1. The board shall hold meetings at least annually to examine applicants and to transact business at the [such] date, time and place as the board shall[, from time to time,] determine at a duly convened regular or special meeting of the board.

Section 2. Regular meetings of the board shall be held at regular intervals at the [such] date, time and place as the board shall[, from time to time] determine at a duly convened regular or special meeting of the board.

Section 3. The president of the board or a majority of its members may, for necessary or appropriate cause, call other meetings.

Section 4. Reasonable notice of all special meetings of the board shall be given to all board members. The [Such] notice shall be in writing and shall state the date, time and place of the meeting. Twenty (20) days prior notice shall be [presumed to be] reasonable. Any regular or special meeting may be adjourned to another date, time and place without the necessity of further notice.

Section 5. Three (3) members shall constitute a quorum for the transaction of business by the board. Less than a quorum may [can] adjourn a meeting from time to time until a quorum is present without the necessity of further notice if [provided that] the original notice was sufficient in the case of special meetings.

Section 6. Except for the manner of conducting hearings which is provided for in 201 KAR 21:051 [Unless otherwise provided by statute or regulation], the latest published revision of "Roberts Rules of Order" shall govern the manner of conducting all meetings of the board.

HAROLD BYERS, D.C., President
APPROVED BY AGENCY: January 12, 1990
FILED WITH LRC: January 15, 1990 at noon
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 21, 1990 at 1 p.m. (EST), at the Office of the Attorney General, Suite 18, Capitol Building, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1990, 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: Conley C. Congleton, Assistant Attorney General, Suite 18, Capitol Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Beverley White
(1) Type and number of entities affected: State Board and Kentucky licensees.
(a) Direct and indirect costs or savings to those affected:
1. First year: Not remarkable.
2. Continuing costs or savings: Not remarkable.
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: Not remarkable.
(2) Effects on the promulgating administrative body: Not remarkable.
(a) Direct and indirect costs or savings:
1. First year: Not remarkable.
2. Continuing costs or savings: Not remarkable.
3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Not remarkable.
(3) Assessment of anticipated effect on state and local revenues: Not remarkable.
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. Regulations pertain to all D.C.s.

GENERAL GOVERNMENT CABINET
Board of Chiropractic Examiners
(Proposed Amendment)

201 KAR 21:035. Seal.

RELATES TO: KRS 312.019
STATUTORY AUTHORITY: KRS 312.019
NECESSITY AND FUNCTION: KRS 312.019(4) provides that the board shall adopt a seal.

Section 1. The official seal of the board shall consist of two (2) concentric circles with the words "The Kentucky State Board of Chiropractic Examiners" between the two (2) circles. The likeness of two (2) hands in the position of an adjustment shall appear within the inner circle with the words "Utile Dulce" immediately below the likeness.

Section 2. The official seal shall be affixed to all licenses, certifications and registrations issued by the board and to [such] other documents [as] the board deems necessary or appropriate.

HAROLD BYERS, D.C., President
APPROVED BY AGENCY: January 12, 1990
FILED WITH LRC: January 15, 1990 at noon
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 21, 1990 at 1 p.m. (EST), at the Office of the Attorney General, Suite 18, Capitol Building, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1990, 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: Conley C. Congleton, Assistant Attorney General, Suite 18, Capitol Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Beverley White
(1) Type and number of entities affected: State Board and Kentucky licensees.
(a) Direct and indirect costs or savings to those affected:
1. First year: Not remarkable.
2. Continuing costs or savings: Not remarkable.
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: Not remarkable.
(2) Effects on the promulgating administrative body: Not remarkable.
(a) Direct and indirect costs or savings:
1. First year: Not remarkable.
2. Continuing costs or savings: Not remarkable.
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: Not remarkable.
(3) Assessment of anticipated effect on state and local revenues: Not remarkable.
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. Regulations pertain to all D.C.s.

GENERAL GOVERNMENT CABINET
Board of Chiropractic Examiners
(Proposed Amendment)

201 KAR 21:045. Specialties.

RELATES TO: KRS 312.019, 312.021
STATUTORY AUTHORITY: KRS 312.012, 312.021
NECESSITY AND FUNCTION: KRS 312.021 provides that the board shall identify by administrative regulation those specialties of chiropractic for which certification may be granted and shall establish by administrative regulation the procedure for obtaining and maintaining [such] certification and the fees therefor. The purpose of this regulation is to carry out that legislative direction.

Section 1. A licensee who is in active practice and in good standing with the board who applies to the board and pays the fee provided for in Section 4 of this regulation shall be certified as a specialist in chiropractic orthopedics, if he holds certified or diplomate status with the American Board of Chiropractic Orthopedists or meets equivalent standards.

Section 2. A licensee who is in active practice and in good standing with the board who applies to the board and pays the fee provided for in Section 4 of this regulation shall be certified as a specialist in roentgenology, if he holds diplomate status with the American Chiropractic Board of Roentgenology or meets equivalent standards.

Section 3. The applicant for certified status under either Section 1 or Section 2 of this regulation shall submit with his application proof of current status with the American Board of Chiropractic Orthopedists or the American Chiropractic Board of Roentgenology or proof of meeting equivalent standards. Certification by the board shall be for a stated period of time not exceeding one (1) year.

Section 4. The board may charge reasonable fees for certification of specialties if the [, provided that such] fees are preestablished by the board at a duly convened meeting thereof and are uniformly applied.

HAROLD BYERS, D.C., President
APPROVED BY AGENCY: January 12, 1990
FILED WITH LRC: January 15, 1990 at noon
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REGULATORY IMPACT ANALYSIS

Agency Contact Person: Beverley White
(1) Type and number of entities affected: State Board and Kentucky licensees.
(a) Direct and indirect costs or savings to those affected:
1. First year: Not remarkable.
2. Continuing costs or savings: Not remarkable.
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: Not remarkable.
(2) Effects on the promulgating administrative body: Not remarkable.
(a) Direct and indirect costs or savings:
1. First year: Not remarkable.
2. Continuing costs or savings: Not remarkable.
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: Not remarkable.
(3) Assessment of anticipated effect on state and local revenues: Not remarkable.
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. Regulations pertain to all D.C.s.

GENERAL GOVERNMENT CABINET
Board of Chiropractic Examiners
(Proposed Amendment)

201 KAR 21:051. Board hearings; charges and complaints.

RELATES TO: KRS 312.150, 312.155, 312.160
STATUTORY AUTHORITY: KRS 312.019
NECESSITY AND FUNCTION: KRS 312.150 to 312.160 provides for the suspension or revocation of licenses by the board following a hearing. The purpose of this regulation is to establish procedural guidelines for board hearings and the processing of formal or informal charges or complaints against licensees.

Section 1. Definitions. [(1)] As used in this regulation:
[(a) "Board" means the Kentucky State Board of Chiropractic Examiners as provided by KRS Chapter 312.]
(1) [(b)] "Order" means the whole or part of any final disposition of the adjudication of a complaint before the board.
(2) [(c)] "Sanction" means the revocation or suspension of a license.

Section 2. [(2)] Complaints and Investigations. (1) [(a)] A formal complaint may be made by any person by filing with the board at board offices a complaint verified by affidavit. The complaint shall contain:
(a) [1.] The name, place of residence and address of the person making the charge and [as well as] the name and place of residence of the person or persons against whom charges are made.
(b) [2.] A clear and concise description of the issues of fact and law involved and the statutes or regulations which were allegedly violated by the party against whom the complaint is brought.
(2) [(b)] Upon receipt of a formal complaint against a licensee, the board shall determine whether the nature and quality of the charges warrant [are such that] further investigation or the initiation of a hearing procedure on the charges against the licensee [is warranted]. In making its determination, the board shall consider whether the charges [are such that] if proven would warrant sanction by the board.
(3) The board may at any time proceed against a licensee on its own initiative either on the basis of information contained in its own records or on the basis of information obtained through its own investigation.
(4) Whether charges are initiated against a licensee by formal complaint or on the board's own motion, no formal charge shall be brought against a licensee except upon the affirmative vote of a majority of the board.
(a) If [Should] the board finds that allegations against a licensee are insufficient for the initiation of a formal disciplinary procedure, it shall issue an order dismissing the matter and cause all interested parties to be so notified.

(b) If the board determines that disciplinary proceedings are appropriate, the board shall set the matter for hearing at a future meeting of the board and shall notify the licensee of the charges against him and the time and place of the hearing. The notice shall set forth with reasonable particularity the facts constituting the alleged offense and shall state the statutes or regulations of the board which are applicable to the charge. The notice of the charges shall be served upon the respondent licensee not less than twenty (20) days prior to the hearing either personally or by mailing a copy thereof by certified mail, return receipt requested to the respondent licensee's address last known to the board.

Section 3. [2.] (1) The hearing conducted pursuant to this regulation shall be presided over by the president of the board who shall be advised on legal issues by counsel designated by the board.

(2) The respondent may appear in person and by counsel and may cross-examine witnesses against him and produce evidence and witnesses in his own behalf and examine [such] evidence and documents as may be produced against him. The respondent shall be entitled on application to the board to the issuance of subpoenas pursuant to KRS 312.165, to compel the attendance of witnesses and evidence on his behalf. Any person compelled to appear at the hearing is entitled to be represented by counsel.

(3) The board shall keep a record of said hearing containing all communications regarding the charges against the respondent licensee. The record shall be available to the respondent or his authorized representative. The hearing shall be [either] mechanically [and/]or stenographically recorded.

(4) [Except as provided otherwise by these rules,] The rules of evidence as applied in civil cases in the circuit courts of the Commonwealth of Kentucky need not be strictly followed. It is the board's intention to permit full development of all relevant issues. [However,] Irrelevant, immaterial or unduly repetitious evidence may be excluded. The board shall give effect to the rules of privilege which are recognized by the laws of the Commonwealth of Kentucky.

(5) When a hearing will be expedited and the interests of the parties will not be prejudiced substantially thereby, all or part of the evidence may be received in written form upon agreement of the parties. Documentary evidence may be introduced in the form of copies or excerpts if the original is not readily available. [, provided that,] Upon request, parties shall be given the opportunity to compare the copy with the original.

(6) Notice may be taken of:

(a) Judicially recognizable facts; [. In addition, notice may be taken of]

(b) Generally recognized technical or scientific facts within the board's specific knowledge. [; provided, however, that the] Parties shall be afforded an opportunity to contest [the] facts [so] noticed.

(7) If [When] necessary to ascertain facts which cannot be proved, evidence not admissible under the foregoing rules may be admitted, except where precluded by statute, if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs.

(8) Objections to evidence offered in proof may be made. [and] The presiding officer shall determine [rule on] whether evidence objected to should be received and considered by the board in reaching its decision. All objections and the ruling of the presiding officer on [as to] each objection shall be noted in the record.

(9) The board shall consider all the evidence in the record in reaching its decision. Ancillary matters not in evidence shall not be considered by the board. The vote of the board shall be taken by the president and it shall take a majority of the board to sustain the charges against the respondent licensee. The board shall adopt findings of fact and conclusions of law. The board shall issue its order and shall either dismiss the action against the respondent licensee or sustain [the charges or] some or all of the charges. If the board sustains some or all of the charges, the board shall [then] by majority vote establish the sanction under law which it deems warranted. The order of the board shall be mailed to the respondent and his authorized representative by certified mail, return receipt requested.

Section 4. [3.] The respondent whose license has been revoked or suspended may within thirty (30) days of receipt of the order appeal to the Franklin Circuit Court. In the absence of such appeal, the order of the board shall be final at the expiration of the thirty (30) day period.

HAROLD BYERS, D.C., President
APPROVED BY AGENCY: January 12, 1990
FILED WITH LRC: January 15, 1990 at noon
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 21, 1990 at 1 p.m. (EST), at the Office of the Attorney General, Suite 18, Capitol Building, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1990, 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: Conley C. Congleton, Assistant Attorney General, Suite 18, Capitol Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Beverley White
(1) Type and number of entities affected: State Board and Kentucky licensees.
(a) Direct and indirect costs or savings to those affected:
1. First year: Not remarkable.
2. Continuing costs or savings: Not remarkable.
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: Not remarkable.
(2) Effects on the promulgating administrative

body: Not remarkable.
(a) Direct and indirect costs or savings:
1. First year: Not remarkable.
2. Continuing costs or savings: Not remarkable.
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: Not remarkable.
(3) Assessment of anticipated effect on state and local revenues: Not remarkable.
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. Regulations pertain to all D.C.s.

GENERAL GOVERNMENT CABINET
Board of Chiropractic Examiners
(Proposed Amendment)

201 KAR 21:055. Colleges; accreditation, approval.

RELATES TO: KRS 312.019, 312.085
STATUTORY AUTHORITY: KRS 312.019
NECESSITY AND FUNCTION: KRS 312.019 provides that the board shall pass upon the qualifications of applicants for a license. KRS 312.085 provides that each applicant shall [must] be a graduate of a chiropractic college which maintains a standard and reputability approved by the board. The purpose of this regulation is to delineate the characteristics of [such] institutions which are approved by the board.

Section 1. A person who makes application to the board to practice chiropractic shall be a graduate of a chiropractic college which is accredited as required by KRS 312.085. In addition to [such] accreditation, the chiropractic college shall offer a course of study, provide a faculty, and have a physical plant and facility which are approved by the board. The following minimum standards shall apply:
(1) The chiropractic college shall have well stated goals and purposes to prepare the doctor of chiropractic as a competent health care provider, well-educated to diagnose and treat his patients and to render the augmentative treatment provided for by KRS 312.015. It shall have a course of study, an administration, teaching staff, a physical plant and facility capable of achieving these objectives.
(2) The chiropractic college shall offer courses of instruction to teach and train its graduates as doctors of chiropractic to diagnose and treat their patients and to render augmentative care. Courses offered shall include anatomy, physiology, pathology, neurology, histology, hygiene, bacteriology, chemistry, chiropractic orthopedics, diagnoses, and use and effects of x-rays and chiropractic principles and practices. It shall require for graduation and completion the amount and quality of classroom instruction, laboratory and clinical experience required of chiropractic colleges by the Council on Chiropractic Education. The college shall also offer courses of continuing education on a postgraduate level.
(3) Seventy-five (75) percent of the members of the full-time faculty of the chiropractic college shall hold graduate degrees in the field of chiropractic or graduate degrees in the allied field in which they [he/she] teach[es]. A [No] course for which credit is given shall be taught by a person who [does not] holds a degree in chiropractic or in the allied field in which he[/she] teaches.
(4) The chiropractic college shall have exclusive possession of buildings adequate to accommodate the student body, faculty and administration, with classrooms, laboratories, clinic, library, research facilities and offices. The plant, grounds, equipment and facilities shall be maintained in a safe, sanitary, efficient and attractive condition. The chiropractic college shall fully comply with all applicable statutes, regulations, ordinances and codes pertaining to health and safety [shall be fully complied with].

Section 2. Each chiropractic college shall engage in a comprehensive, active and ongoing self-evaluation program conducted by representatives from its administration, faculty and student body. A report of such evaluation shall be made at least annually and a copy of such report shall be submitted to the board through its executive secretary. The college shall also submit annually its catalog and supplemental materials and information sufficient to advise the board of the courses offered and the instructors thereof; the faculty and staff of the college, the courses they teach and[/or] the duties they perform, their educational attainment, professional memberships and professional positions held by them; the physical plant of the college, including the number and size of buildings, classrooms, libraries, laboratories, offices and clinic; the extent of laboratory training and clinical experience available to its students; the books and materials available in its library; the number of students at each level of educational attainment; the calendar of the college showing the beginning and ending dates of its terms, the vacation periods, the holidays observed, and the examination periods; and such other information as may be requested by the board to assist it in evaluating the college and its ability to produce graduates qualified to diagnose and treat patients as doctors of chiropractic.

Section 3. The board and[/or] any designees of the board shall have the right to inspect and observe any aspect of the educational program, plant and facilities of any chiropractic college which has a graduate or graduates to apply to be licensed by the board. Upon request of a [the] college, the board shall designate an inspection team consisting of not more than five (5) members to inspect the college and to observe [its] operations and to report its observations to the board with respect to the manner in which the college [it] is complying with the standards set forth or alluded to in this regulation. The expenses of such inspection team and reasonable compensation for members of the inspection team who are not members of the board shall be paid

by the requesting college.

HAROLD BYERS, D.C., President
APPROVED BY AGENCY: January 12, 1990
FILED WITH LRC: January 15, 1990 at noon
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 21, 1990 at 1 p.m. (EST), at the Office of the Attorney General, Suite 18, Capitol Building, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1990, 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: Conley C. Congleton, Assistant Attorney General, Suite 18, Capitol Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Beverley White
(1) Type and number of entities affected: State Board and Kentucky licensees.
(a) Direct and indirect costs or savings to those affected:
1. First year: Not remarkable.
2. Continuing costs or savings: Not remarkable.
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: Not remarkable.
(2) Effects on the promulgating administrative body: Not remarkable.
(a) Direct and indirect costs or savings:
1. First year: Not remarkable.
2. Continuing costs or savings: Not remarkable.
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: Not remarkable.
(3) Assessment of anticipated effect on state and local revenues: Not remarkable.
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. Regulations pertain to all D.C.s.

GENERAL GOVERNMENT CABINET
Board of Chiropractic Examiners
(Proposed Amendment)

201 KAR 21:065. Professional advertising.

RELATES TO: KRS 312.015, 312.021, 312.991
STATUTORY AUTHORITY: KRS 312.019
NECESSITY AND FUNCTION: This regulation delineates limits of permissible professional advertising with the aim of adequately informing the public but at the same time establishes limits to safeguard the public from false or misleading statements and nuisance type advertising.

Section 1. A licensee may advertise his[/her] services as authorized by this regulation and not otherwise. [Such] Advertisements may not be self-laudatory or misleading, and shall be confined to the following:
(1) Name, including name of professional partnership or professional service corporation, if applicable, and name of chiropractic clinic, if applicable and licensed by the board, and names of professional associates who are licensed chiropractors;
(2) Address;
(3) Telephone number;
(4) Office hours;
(5) A statement of the type of services rendered including, if desired, any limitation or concentration of practice;
(6) Time period in which the services would be rendered;
(7) A schedule of fees for routine chiropractic services. The [Such] fees shall be in effect for no fewer than thirty (30) days after the date advertised; and
(8) Whether credit cards or other credit arrangements are accepted.

Section 2. [Such] Advertisements may be by radio, [or] television or in writing. A written advertisement may be sent or delivered to an individual addressee only if that addressee is one (1) of a class of persons, other than a family, to whom it is also sent or delivered at or about the same time, and only if it is not prompted or precipitated by a specific event or occurrence involving or relating to the addressee or addressees as distinct from the general public. A licensee that advertises a fee for routine services and accepts the employment must perform the [such] services for the amount advertised, and a statement to that effect shall be included in every advertisement in which a fee is listed.

Section 3. A licensee advertising chiropractic services shall, simultaneously with the publication of the [such] advertisement, mail to the board a copy of any written advertisement, or if by radio or television, a cassette recording of the [such] advertisement plus a typed transcription of the words spoken or stated therein. In the instance of an advertisement mailed or delivered to an individual addressee or addressees, the licensee so advertising shall, at the same time, mail to the board a copy of the communication and a list of all the persons to whom it is being or will be sent or delivered.

HAROLD BYERS, D.C., President
APPROVED BY AGENCY: January 12, 1990
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REGULATORY IMPACT ANALYSIS

Agency Contact Person: Beverley White
(1) Type and number of entities affected: State Board and Kentucky licensees.
(a) Direct and indirect costs or savings to those affected:
1. First year: Not remarkable.
2. Continuing costs or savings: Not remarkable.
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: Not remarkable.
(2) Effects on the promulgating administrative body: Not remarkable.
(a) Direct and indirect costs or savings:
1. First year: Not remarkable.
2. Continuing costs or savings: Not remarkable.
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: Not remarkable.
(3) Assessment of anticipated effect on state and local revenues: Not remarkable.
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. Regulations pertain to all D.C.s.

GENERAL GOVERNMENT CABINET
Board of Physical Therapy
(Proposed Amendment)

201 KAR 22:031. Therapist's licensing procedure.

RELATES TO: KRS 327.050, 327.060, 327.080
STATUTORY AUTHORITY: KRS 327.040
NECESSITY AND FUNCTION: The purpose of this regulation is to define clearly the procedure for issuing licenses. This regulation standardizes the administrative procedures involved in granting a physical therapy license through the various means of qualifying.

Section 1. The fee for application for licensure by examination is established in 201 KAR 22:135. [shall be prorated according to the time within the biennial licensure term it is received by the executive secretary of the board and shall be set by regulation.] Upon approval as a candidate by the board, the candidate for licensure by examination shall [will] be notified of the date, place and time of the examination to [by the board. Examinations will] be held at the [a] time and location set by the board. The board shall [will] administer the Assessment Systems, Incorporated (ASI) [Professional Examination Service of the American Public Health Association] examination [and/or other examinations as determined by the board] to those qualified candidates permitted to sit for the examination. Other examinations as determined by the board may be administered in lieu of, or in addition to the ASI examination.

Section 2. If an applicant becomes a candidate for licensure by examination before forty-five (45) days preceding the date that the next examination is to be held and credentials of the applicant are in order, fees submitted and the board is in receipt of a completed supervisory agreement statement, then a temporary permit shall be issued to be in force until [sixty (60) days after that examination is held, until] the results of that examination are received by the candidate [and processed], or until the regularly scheduled renewal date of all licenses to practice, March 31 of each uneven numbered year, whichever comes first.

Section 3. A temporary permit requires that the physical therapist applicant shall work only under the supervision of a physical therapist licensed and practicing in Kentucky. Supervision requires [means that] the responsible therapist to be available and accessible by telecommunications at all times during the working hours of the person with a temporary permit. The supervising therapist shall be responsible for the direction of the actions of the person supervised when services are performed by the person with a temporary permit including cosigning all evaluations and physical therapy recordings within fourteen (14) days. The date of the record review shall be noted. The board may [shall] issue a temporary permit only to:
(1) Graduates who have applied for licensure by examination, have met all requirements and are sitting for the next examination or who have taken that examination and have not yet been notified of the results.

[(2) Applicants for licensure by endorsement who have met all other requirements but must take one (1) or more parts of the examination again.]

(2) [(3)] Foreign-trained physical therapist applicants who have met all requirements for licensure application and paid all fees provided for in KRS 327.060(2), except that the applicant has not yet taken [and successfully completed] the ASI [PES] examination [and/]or has not yet begun or completed [a] one (1) year of board approved, supervised employment as a physical therapist.

(3) [(4)] Graduates who have applied for licensure by ASI [PES] examination in another state and who have met all requirements for Kentucky application but who have not yet taken [and/]or been notified of the results [successful completion] of that examination.

Section 4. The following candidates are not eligible to practice as a physical therapist in any manner in Kentucky until they have successfully completed the board approved examination in this or another state:

(1) A person who has failed the ASI examination in this or another state or country.

(2) A person who had qualified as an examination candidate but who failed to take or complete the scheduled examination; and

(3) An endorsement candidate whose PES or ASI examination results do not meet Kentucky's requirements.

To be examined, or reexamined in Kentucky, any candidate listed above must have applied for licensure by examination and have met all application requirements, including payment of the applicable fee. [The applicant shall have three (3) attempts to pass the examination except that no applicant may work with a temporary permit longer than twenty-one (21) months.] The original application fee covers the first scheduled examination [attempt]. The cost of the examination to the board plus an administrative fee of forty-seven (47) dollars and fifty (50) cents shall [must] be paid [assumed] by the applicant for reexamination or for an examination not taken or not completed. [the second and third attempts. The temporary permit will be issued after request for reexamination on the second and third attempts and payment of the required fee at the discretion of the board. If the applicant fails on the third attempt, the temporary permit is revoked and the applicant may no longer be employed in Kentucky as a physical therapist. The applicant may reapply after one (1) year but must submit a new application fee and no temporary permit will be issued.]

Section 5. Candidates examined by boards of other states and territories before July 7, 1989 shall have registered their PES scores with the Interstate Reporting Service of the Professional Examination Service. Candidates examined in another jurisdiction after July 7, 1989 shall arrange with the Professional Reporting Service (PRS) of Assessment Systems, Incorporated to have their examination results submitted to the board. The applicable service shall then calculate the applicant's scores to meet Kentucky board requirements and submit the same to this board for consideration of licensure. [The applicants' scores, calculated by the PES to meet Kentucky board requirements, shall be submitted by the Interstate Reporting Service to this board for consideration of licensure.]

Section 6. The candidate for licensure by endorsement shall submit the regular license application form, shall arrange to have submitted proper evidence that he has been examined by the PES or ASI and pay the [an] application fee established in 201 KAR 22:135 [prorated according to the period within the biennial licensure term in which he is applying. The fee required shall be set by regulation]. The Kentucky State Board of Physical Therapy shall [will] endorse a candidate who has been examined before July 7, 1989 by the Professional Examination Service, or after that date, by Assessment Systems, Incorporated, and whose score meets the board's requirements of national average raw score minus one and five-tenths (1.5) standards deviation set equal to a converted score of seventy-five (75) on each part of the examination, and whose physical therapy license has never been revoked or suspended, and is currently not on probation or under disciplinary review in another state. Other examinations as determined by the board may be administered in lieu of, or in addition to the PES or ASI examination.

Section 7. The candidate for licensure through reinstatement may receive renewal of his license without further examination upon requesting reinstatement, furnishing all information required of a license renewal applicant in 201 KAR 22:040 [his complete current home and physical therapy work addresses and telephone number], payment of the reinstatement fee established in 201 KAR 22:135 [which has been set by regulation and prorated according to the time within a biennial licensure term it received by the executive secretary of the board]. Therapists who have not been licensed for three (3) years shall [may], in addition, be required to [appear before the board and/or] show evidence of professional competency, and provide verification that any license to practice in another state has not been disciplined or is not under current disciplinary review. Reinstatement of the candidate will be at the board's discretion after evaluation of said evidence.

Section 8. A license, which shall be in effect until March 31st of the next uneven numbered year shall be issued by the board when it receives notice from Assessment Systems, Incorporated [the Professional Examination Service] that the candidate by examination has received a passing grade which shall be set based on the national raw average score minus one and five-tenths (1.5) standard deviation set equal to a converted score of seventy-five (75) on each part of the examination, and when candidates by endorsement and foreign trained candidates have met all requirements.

Section 9. The executive secretary of the board may function administratively to review, process and interpret all applications received by the board and correspond with the applicants accordingly.

DEBRA BRYANT THARP, Chairman
APPROVED BY AGENCY: December 15, 1989
FILED WITH LRC: January 15, 1990 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 21, 1990 at 10 a.m. at 400 Sherburn Lane, Suite 248, Louisville, Kentucky 40207. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1990, 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. Nancy Brinly, Executive Secretary, Kentucky State Board of Physical Therapy, The Mall Office Center, 400 Sherburn Lane, Suite 248, Louisville, Kentucky 40207-4215.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Nancy Brinly, Executive Secretary

(1) Type and number of entities affected: Possible total of ten candidates a year failing the examination will no longer be able to work in Kentucky until they have passed the examination.

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

1. First year: Decrease in income for failing candidates who can only work as an aide until the examination has been passed. (3-6 months)

2. Continuing costs or savings: No cost factors.

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

(b) Reporting and paperwork requirements: No change.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: No cost factors.

2. Continuing costs or savings: No cost factors.

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

(b) Reporting and paperwork requirements: Decrease in paperwork for failing candidates relative to multiple temporary permits.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternatives identified.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: Kentucky has been nearly unique in permitting a failing candidate to continue to work, even under supervision. The board felt the liabilities to employers were increased and that the board could not ensure the baseline competencies the consumer deserves.

TIERING: Was tiering applied? No. All physical therapists and physical therapist's assistants are treated uniformly under the law.

GENERAL GOVERNMENT CABINET
Board of Physical Therapy
(Proposed Amendment)

201 KAR 22:106. Assistant's certification procedure.

RELATES TO: KRS 327.040
STATUTORY AUTHORITY: KRS 327.040
NECESSITY AND FUNCTION: Because certification may be achieved in several ways, this regulation defines the types of candidates, [the fee] and procedure for making application to the State Board of Physical Therapy as a candidate for certification as a physical therapist's assistant.

Section 1. The fee for application for certification by examination is established in 201 KAR 22:135 [shall be set by regulation and be prorated according to the time within a biennial licensure term it is received by the executive secretary of the board]. Upon approval as a candidate by the board, the candidate for certification by examination shall [will] be notified of the date, place and time of the examination to [. Examination will] be held at the [a] time and location set by the board. The board shall [will] administer the Assessment Systems, Incorporated (ASI) [Professional Examination Service of the American Public Health Association] examination. Other examinations as determined by the board may be administered in lieu of, or in addition to the ASI examination [and/or other examinations as determined by the board] to those qualified candidates permitted to sit for the examination.

Section 2. If an applicant becomes a candidate for certification by examination before forty-five (45) days preceding the date that the next examination is to be held, the credentials of the applicant are in order, correct fee submitted and the board is in receipt of a completed supervisory agreement statement, then a temporary permit shall be issued to be in force until [sixty (60) days after the examination, until] the results of that examination are received, [and] processed, and the candidate has been notified of the results, or until the regularly scheduled renewal date of all licenses to practice, March 31 of each uneven numbered year, whichever comes first. A temporary permit requires that the physical therapist's assistant candidate work only with on-site supervision of a physical therapist licensed in Kentucky who shall cosign and date all of the physical therapist's assistant's physical therapy patient records within seven (7) days of the recording. The board may [shall] issue a temporary permit to:

(1) Graduates who have applied for certification by examination, have met all requirements and are sitting for the next examination or who have taken that examination and have not yet been notified of the results.

[(2) Applicants for certification by endorsement who have met all other requirements

but must take the examination again.]

(2) [(3)] Graduates who have applied for certification by ASI [PES] examination or other examinations approved by the board in another state and who have met all requirements for Kentucky application but who have not yet [taken and] been notified of the results [successful completion] of that examination.

Section 3. The following candidates are not eligible to practice as a physical therapist's assistant in any manner in Kentucky until they have successfully completed the board approved examination in this or another state:

(1) A person who has failed the ASI examination in this or another state or country.

(2) A person who had qualified as an examination candidate but who failed to take or complete the scheduled examination; and

(3) An endorsement candidate whose PES or ASI examination results do not meet Kentucky's requirements.

To be examined, or reexamined in Kentucky, any candidate listed above must have applied for certification by examination and have met all application requirements, including payment of the applicable fee. [The applicant shall have three (3) attempts to pass the examination except that no applicant may work with a temporary permit longer than twenty-one (21) months.] The original application fee covers the first scheduled examination [attempt]. The cost of the examination to the board plus an administrative fee of forty-seven (47) dollars and fifty (50) cents shall [must] be paid [assumed] by the applicant for reexamination or for an examination not taken or not completed. [the second and third attempts. If the applicant fails on the first and second attempts and requests reexamination and pays the required fee, at the discretion of the board, a temporary permit shall be issued to allow the applicant to practice. If the applicant fails on the third attempt, the temporary permit is revoked and the applicant may no longer be employed in Kentucky as a physical therapist's assistant. The applicant who has failed the qualifying examination three (3) times may reapply after one (1) year but must submit a new application fee and no temporary permit will be issued.]

Section 4. Candidates examined by boards of other states or territories before July 7, 1989 shall have registered their PES scores with the Interstate Reporting Service of the Professional Examination Service. Candidates examined by another jurisdiction after July 7, 1989 shall arrange with the Professional Reporting Service (PRS) of Assessment Systems, Incorporated to have their examination results submitted to the board. The applicable service shall then calculate the applicant's scores to meet Kentucky board requirements and submit the same to this board for consideration of certification. [The applicant's scores, calculated by the PES to meet Kentucky board requirements, shall be submitted by the Interstate Reporting Service to this board for consideration of certification.]

Section 5. The candidate for certification by endorsement shall use the regular application form. The Kentucky State Board of Physical Therapy shall [will] endorse a candidate who has paid an application fee proper for the period within the biennial licensure term in which he is applying, been examined by PES or ASI, [the Professional Examination Service,] meets the Kentucky board's requirements of the national raw average score minus one and five-tenths (1.5) standard deviation set equal to a converted score of seventy-five (75), and has never had a physical therapist's assistant certificate revoked or suspended or whose certificate is currently not on probation or under disciplinary review in another state. The [fee submitted for] application fee, which shall be submitted to the [received by] the executive secretary of the board is established in 201 KAR 22:135. [shall be set by regulation and be prorated according to the time within the biennial licensure term it is received.] Other examinations as determined by the board can be administered in lieu of, or in addition to the PES or ASI examination.

Section 6. The candidate for reinstatement may have his certificate reinstated [receive a renewal of his/her certificate] without further examination upon [requesting renewal,] payment of the reinstatement fee established in 201 KAR 22:135, and furnishing all information required of a certification renewal applicant in 201 KAR 22:110 [which is set by regulation and prorated according to the time within the biennial licensure term it is received by the executive secretary of the board. He must also furnish current complete home and all physical therapy business locations and telephone numbers and send these] to the executive secretary of the board. Assistants applying for reinstatement who have not been certified for three (3) or more years and who have not been lawfully employed as an assistant in another state shall [may], in addition, be required to work with on-site supervision for a maximum period of time of up to six (6) months, and [; or possibly,] after an evaluation of the period of supervision, the board may require the applicant [each instance be required] to be reexamined. An assistant who has been licensed and working in another state shall be required to provide verification that his license to practice in that state has not been disciplined or is not under current disciplinary review. Reinstatement of the candidate shall be at the board's discretion after evaluation of all evidence.

Section 7. Physical therapist candidates who fail to pass the physical therapists' licensure examination may become special candidates for physical therapist's assistant certification by applying for certification by examination and successful completion of that examination. [on three (3) attempts and] Foreign trained physical therapist candidates who fail to complete general education requirements within one (1) year who have met all other requirements for physical therapist licensure [the designated twenty-one (21) months] may also become special candidates for certification as a physical therapist's assistant by written request [application] to the board. [The board will only consider those candidates who have achieved at least a converted sixty-five (65) on each part of their physical therapist examination with a passing set equal to the national average raw score minus one and five-tenths (1.5) standard deviation set equal to a converted seventy-five

(75) on each part of the physical therapist examination.]

Section 8. Certification, which shall be in effect until March 31 of the next uneven numbered year shall be issued by the board when candidates for certification by endorsement, reinstatement and foreign trained special means candidates who lack sufficient general education credits have met all requirements and the board has received notice from Assessment Systems, Incorporated [the Professional Examination Service] that the candidate by examination has received a passing grade of at least the national raw average score minus one and five-tenths (1.5) standard deviation set equal to a converted score of seventy-five (75).

DEBRA BRYANT THARP, Chairman
APPROVED BY AGENCY: December 15, 1989
FILED WITH LRC: January 15, 1990 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 21, 1990 at 10 a.m. at 400 Sherburn Lane, Suite 248, Louisville, Kentucky 40207. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1990, 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. Nancy Brinly, Executive Secretary, Kentucky State Board of Physical Therapy, The Mall Office Center, 400 Sherburn Lane, Suite 248, Louisville, Kentucky 40207-4215.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Nancy Brinly, Executive Secretary
(1) Type and number of entities affected: Possibly one failing examination applicant every two years who might fail the qualifying examination.
(a) Direct and indirect costs or savings to those affected:
1. First year: Decrease in income for failing candidates who can only work as an aide until the examination has been passed. (3-6 months)
2. Continuing costs or savings: No cost factors.
3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A
(b) Reporting and paperwork requirements: No change.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: No cost factors.
2. Continuing costs or savings: No cost factors.
3. Additional factors increasing or decreasing costs: N/A
(b) Reporting and paperwork requirements: Decrease in paperwork for failing candidates relative to multiple temporary permits.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternatives identified.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: Kentucky has been nearly unique in permitting a failing candidate to continue to work, even under supervision. The board felt the liabilities to employers were increased and that the board could not ensure the baseline competencies the consumer deserves.
TIERING: Was tiering applied? No. All physical therapists and physical therapist's assistants are treated uniformly under the law.

GENERAL GOVERNMENT CABINET
Board of Physical Therapy
(Proposed Amendment)

201 KAR 22:135. Fees.

RELATES TO: KRS 327.040(12), 327.050
STATUTORY AUTHORITY: KRS 327.040
NECESSITY AND FUNCTION: The purpose of this regulation is to establish fees required of applicants for licensure or certification by endorsement, examination, reinstatement, renewal and reexamination. Fees are set to reflect the revenue required to permit the board to fulfill its statutory obligations.

Section 1. An application fee, except for reexamination and renewal is prorated according to the time within a biennial licensure term it is received by the executive secretary of the board. Fees submitted for application received in the first year of a biennial licensure term shall be greater by one-half the renewal fee than a fee received in the second year of a biennial licensure term. This fee and application could result in a permit and[/or] license or certificate to be valid for more than one (1) year. Personal checks are permitted only for license, temporary permit, or certificate renewal applications. Personal, cashier's or certified checks or money orders shall [are to] be made payable to the Kentucky State Treasurer, sent to the executive secretary of the board, and are not refundable.
(1) The fees for application for licensure or certification in the first year of the biennial licensure term are:
(a) Physical therapists and physical therapist's assistants:
1. Application fee for licensure or [/] certification by endorsement [fee] is $140.
2. Application fee for license or [/] certificate reinstatement [fee] is $105.
(b) Physical therapist application fee for licensure by examination [fee] is $220 [205].
(c) Physical therapist's assistant application fee for certification by examination [fee] is $210 [200].

(2) The fee for application for licensure or certification in the second year of the biennial licensure term are:

(a) Physical therapists and physical therapist's assistants:

1. Application fee for licensure or [/] certification by endorsement [fee] is $100.

2. Application fee for license or [/] certificate reinstatement [fee] is sixty-five (65) dollars.

(b) Physical therapist application fee for licensure by examination [fee] is $180 [165].

(c) Physical therapist's assistant application fee for certification by examination [fee] in $170 [160].

Section 2. The renewal application fee for physical therapists and physical therapist's assistants shall be eighty (80) dollars.

Section 3. The [fee for] application fee for reexamination or examination if a person fails to take or complete the examination he registered to take shall be:

(1) Seventy-seven (77) dollars and fifty (50) cents for the physical therapist applicant who must retake only one (1) part of the physical therapist examination;

(2) $137.50 for the physical therapist applicant who must retake or take more than one (1) part of the examination; and

(3) $127.50 for the physical therapist's assistant applicant. [the cost of the examination to the board plus an administrative fee of forty-seven (47) dollars and fifty (50) cents.]

DEBRA BRYANT THARP, Chairman

APPROVED BY AGENCY: December 15, 1989

FILED WITH LRC: January 15, 1990 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 21, 1990 at 10 a.m. at 400 Sherburn Lane, Suite 248, Louisville, Kentucky 40207. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1990, 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. Nancy Brinly, Executive Secretary, Kentucky State Board of Physical Therapy, The Mall Office Center, 400 Sherburn Lane, Suite 248, Louisville, Kentucky 40207-4215.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Nancy Brinly, Executive Secretary

(1) Type and number of entities affected: Approximately 60 physical therapists and 35 physical therapist's assistant exam applicants per year. Approximately one person every three years fails to come to the exam he is scheduled to take.

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

1. First year: Additional cost of $15 for each physical therapist applicant and $10 for each physical therapist's assistant applicant.

2. Continuing costs or savings: Same as 1.

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

(b) Reporting and paperwork requirements: No change.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: No change.

2. Continuing costs or savings: Same

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

(b) Reporting and paperwork requirements: No change.

(3) Assessment of anticipated effect on state and local revenues: The increase in agency revenue will only reflect the increase in cost to the agency.

(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternatives available.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: The changes in application and reexamination fees reflect the increase in the cost of the examination to the board which will take place in 1990. The charge to be instituted for persons failing to take the examination they have registered to take is mandated by the fact that the examining company will now charge the agency for each examination sent to it, taken or not.

TIERING: Was tiering applied? No. All physical therapists and physical therapist's assistants are treated uniformly under the law.

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

401 KAR 30:010. Definitions.

RELATES TO: KRS 224.033, 224.830 through 224.889, 224.994

STATUTORY AUTHORITY: KRS Chapter 13A, 224.033

NECESSITY AND FUNCTION: KRS 224.033 and the waste management provisions of KRS Chapter 224 require the Natural Resources and Environmental Protection Cabinet to adopt rules and regulations for the management of solid and hazardous wastes. This chapter establishes the general administrative procedures which are applicable to 401 KAR Chapters 31 through 49. This regulation defines essential terms used in connection with the waste management regulations.

Section 1. Definitions. Unless otherwise specifically defined in KRS Chapter 224 or otherwise clearly indicated by their context, terms in KRS Chapter 224 and in the waste

management regulations shall have the meanings given in this regulation.

(1) "Aboveground tank" see either "hazardous waste management unit-hazardous waste tanks-aboveground tank" or "solid waste site or facility-tank-aboveground tank."

(2) [(1)] "Accumulated speculatively" see Section 1 of 401 KAR 31:010.

(3) [(2)] "Active fault" means a land area which, according to the weight of geological evidence, has a reasonable probability of being affected by movement along a fault to the extent that a hazardous waste site or facility or a solid waste site or facility would be damaged and thereby pose a threat to human health and the environment.

(4) [(3)] "Active life" of a facility means the period from the initial receipt of hazardous waste or solid waste at the facility until the cabinet [secretary] receives certification of final closure.

(5) [(4)] "Active portion" means any area of a facility where treatment, storage or disposal operations are being or have been conducted and which have not been closed. It includes the treated area of a landfarm and the active face of a landfill. Covered, closed, or inactive portions of landfills, building roofs, and roads are excluded unless designated as "active portions" by the cabinet [secretary].

(6) "Administrative application" see "application - administrative application."

(7) [(5)] "Administrator" means the administrator of the United States Environmental Protection Agency, or his designee.

(8) [(6)] "Admixed liner" means a liner made from a mixture of any of a multitude of materials, often asphalt or cement, with widely varying physical and chemical properties. Admixed liners must be demonstrated to be structurally sound and chemically resistant to the waste placed in it so as to be capable of supporting the waste without cracking or disintegrating or allowing waste or leachate to escape.

(9) [(7)] "Agricultural waste" means any nonhazardous waste resulting from the production and processing of on-the-farm agricultural products, including manures, prunings and crop residues.

(10) "Airport" means public-use airport open to the public without prior permission and without restrictions within the physical capacities of available facilities.

(11) [(8)] "Ampule" means a small sealed glass container for one (1) dose of sterile medicine.

(12) [(9)] "Ancillary equipment" means any device including but not limited to such devices as piping, fittings, flanges, valves, and pumps, that is used to distribute, meter, or control the flow of hazardous waste from its point of generation to hazardous waste management units including tanks between hazardous waste storage and treatment tanks to a point of disposal on site, or to a point of shipment for disposal off site.

(13) "Application" means the forms approved by the cabinet for applying for a permit, including any additions, revisions or modifications and any narrative and drawings required by the waste management regulations for a permit type which are not on a form. The term includes the following:

(a) [(111)] "Part A of the application" or "Part A" means the standard forms or format for applying for a hazardous waste site or facility permit as required in 401 KAR 38:080.

(b) [(112)] "Part B of the application" or "Part B" means the standard format for applying for a hazardous waste site or facility permit as required in 401 KAR 38:090 through 401 KAR 38:210. Specifically, Part B consists of submitting all of the information required in 401 KAR 38:090 through 401 KAR 38:210; there are no official forms for the submission.

(c) "Notice of intent to apply for a solid waste permit" or "notice of intent" means the standard forms for applying for a solid waste site or facility permit as required by 401 KAR 47:110, 401 KAR 47:160, 401 KAR 47:170 and 401 KAR 48:200.

(d) "Administrative application" means the standard forms and format used for applying for a solid waste site or facility permit as specified in 401 KAR 47:160 and 401 KAR 47:180.

(e) "Technical application" means the standard format for applying for a solid waste site or facility permit as specified in 401 KAR 47:160 and 401 KAR 47:190.

(14) [(10)] "Aquifer" means a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of groundwater to wells or springs.

(15) [(11)] "Attenuation" means any decrease in the maximum concentration or total quantity of an applied chemical or biological constituent in a fixed time or distance traveled resulting from a physical, chemical, and/or biological reaction or transformation occurring in the zone of aeration or zone of saturation.

(16) [(12)] "Authorized representative" means the person responsible for the overall operation of a facility or an operational unit (i.e., part of a facility), e.g., the plant manager, superintendent or person of equivalent responsibility.

(17) [(13)] "Base flood" means a flood that has a one (1) percent or greater chance of recurring in any year or a flood of a magnitude equaled or exceeded once in 100 years on the average over a significantly long period.

(18) "Bird hazard" means an increase in the likelihood of bird/aircraft collisions that may cause damage to the aircraft or injury to its occupants.

(19) [(14)] "Board" means the Kentucky regional integrated waste treatment and disposal facility siting board (KRS 224.2201).

(20) [(15)] "Boiler" see "hazardous waste site or facility-boiler."

(21) [(16)] "By-product" see Section 1 of 401 KAR 31:010.

(22) [(17)] "Cabinet" means the Natural Resources and Environmental Protection Cabinet (KRS 224.005).

(23) [(18)] "Cation exchange capacity" means the sum of exchangeable cations a soil can absorb expressed in milliequivalents per 100 grams of soil as determined by sampling the soil to the depth of cultivation or solid waste placement, whichever is greater, and analyzing by the summation method for distinctly acid soils or the sodium acetate method for neutral, calcareous or saline soils.

(24) [(19)] "Cell" means a portion of a landfill or a sanitary landfill which is isolated, usually by means of an approved barrier.

(25) [(20)] "Certificate" means a certificate of environmental safety and public necessity

(KRS 224.2201).

(26) [(21)] "Certification" means a statement of professional opinion based upon knowledge and belief.

(27) [(22)] "Closed portion" means that portion of a facility which an owner or operator has closed in accordance with the approved facility closure plan and all applicable closure requirements.

(28) "Closed unit" means any solid waste unit that no longer receives solid waste as of the effective date of this regulation and has received a final layer of cover material.

(29) [(23)] "Closure" means the time at which a waste treatment, storage or disposal facility permanently ceases to accept wastes, and includes those actions taken by the owner or operator of the facility to prepare the site for postclosure monitoring and maintenance or to make it suitable for other uses (KRS 224.005).

(30) "Closure care" means the routine care, maintenance, monitoring and any required corrective action of a solid waste disposal site following certification of closure until the applicable requirements in Section 13 of 401 KAR 48:090, Section 15 of 401 KAR 48:070 and Section 3 of 401 KAR 48:170 are met.

(31) [(24)] "Coal mining solid waste" means solid waste as defined by KRS 224.005 which is generated at, and is incidental to, a coal exploration operation or surface mining and reclamation operation regulated under KRS Chapter 350, and shall not include wastes generated by households, communities, cities, counties, or any person or business other than those regulated under KRS Chapter 350.

(32) [(25)] "Coal mining waste" means earth materials which are combustible, physically unstable, or acid-forming or toxic-forming, that are generated during and incidental to the mining and extraction of coal and to the washing and crushing of coal. The term does not include used oil, paints or flammable liquids. The term includes the following:

(a) Refuse which is that waste material in the raw coal which it is the object of cleaning to remove;

(b) Overburden which includes all of the earth and other geologic materials, excluding topsoil, which lie above a natural deposit of coal and also means such earth and other material after removal from their natural state in the process of mining; and

(c) Coal mining by-products which include any material that is not one (1) of the primary products of a particular coal mining operation, is a secondary and incidental product of the particular operation and would not be solely and separately mined by the particular operation. The term does not include an intermediate mining product which results from one (1) of the steps in a mining process and is processed through the next step of the process within a short time. An example of a coal mining by-product is that part of the ore deposit that is too low in grade to be of economic value at the time, but which is stored separately in the hope that it can be profitably treated later.

(33) "Commercial solid waste" means all types of solid waste generated by stores, offices, restaurants, warehouses, and other nonmanufacturing activities, excluding residential and industrial wastes.

(34) "Component" see "hazardous waste management unit-hazardous waste tanks-component" or "solid waste site or facility-tank-component."

(35) [(26)] "Confined aquifer" means an aquifer bounded above and below by impermeable beds or by beds of distinctly lower permeability than that of the aquifer itself; an aquifer containing confined groundwater.

(36) [(27)] "Constituent" or "hazardous waste constituent" means a constituent which caused the cabinet to list the hazardous waste in 401 KAR 31:040, or a constituent listed in Section 5(3) of 401 KAR 31:030.

(37) "Construction/demolition debris landfill" see "solid waste site or facility-construction/demolition debris landfill."

(38) "Construction/demolition waste" means the waste building materials, packaging, and rubble resulting from construction, remodeling, repair, and demolition operations on pavements, houses, commercial buildings, and other structures. Such wastes include, but are not limited to, bricks, concrete, other masonry materials, soil, rock, lumber, road spoils, rebar, paving materials, and tree stumps. Such waste does not include any hazardous waste.

(39) [(28)] "Construction materials" means nonhazardous nonsoluble material, including but not limited to steel, concrete, brick, asphalt roofing material, or lumber from a construction or demolition project. Mixture of construction and demolition debris with any amount of other types of waste may cause it to be classified as other than construction materials.

(40) [(29)] "Contained landfill" see "solid waste site or facility - contained landfill."

(41) [(30)] "Container" means any portable enclosure in which a material is stored, transported, treated, disposed, or otherwise handled.

(42) [(31)] "Contaminate" means introduce a substance that would cause:

(a) The concentration of that substance in the groundwater to exceed the maximum contaminant level specified in Sections 5 and 6 of 401 KAR 47:030 or [Section 2 of 401 KAR 30:030 and] 401 KAR 34:060, Section 8.

(b) An increase in the concentration of that substance in the groundwater where the existing concentration of that substance exceeds the maximum contaminant level specified in 401 KAR 47:030 [30:030, Section 2] or 401 KAR 34:060, Section 8.

(c) An increase in the concentration of that substance in the groundwater above background when an established maximum contaminant level does not exist.

(43) [(32)] "Contamination" means the degradation of naturally occurring water, air, or soil quality either directly or indirectly as a result of human activities.

(44) [(33)] "Contingency plan" means a document setting out an organized, planned, and coordinated course of action to be followed in the event of a fire, explosion or release of waste or waste constituents into the environment which has the potential for endangering human health and the environment. Financial planning to identify resources for initiation of such action is a part of contingency plan development.

(45) [(34)] "Corrosion expert" means a person who by reason of his knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and

metal tanks documented by credentials submitted to the cabinet. Such a person must be certified as being qualified by the National Association of Corrosion Engineers (NACE) or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control on buried or submerged metal piping systems and metal tanks.

(46) [(35)] "Cover material" means soil or other suitable material that is spread and compacted on the top and side slopes of disposed waste in order to control disease vectors, gases, erosion, fires, and infiltration of precipitation or run-on; support vegetation; provide trafficability; or assure an aesthetic appearance.

(47) [(36)] "Designated facility" means a hazardous waste treatment, storage, or disposal facility which has received a hazardous waste site or facility permit (or a facility with interim status) in accordance with the requirements of 401 KAR Chapter 38, a permit from a state authorized in accordance with 40 CFR Part 271, and EPA permit (or a facility with interim status) in accordance with 40 CFR Parts 270 and 124, or that is regulated under Section 6(3)(b) of 401 KAR 31:010 or 401 KAR Chapter 36, 40 CFR 261.6(c)(2) or 40 CFR Part 266, and that has been designated on the manifest by the generator pursuant to Section 1 of 401 KAR 32:020.

(48) [(37)] "Destruction or adverse modification" means a direct or indirect alteration of critical habitat which appreciably diminishes the likelihood of the survival and recovery of threatened or endangered species using that habitat.

(49) [(38)] "Dike" means an embankment or ridge of either natural or manmade materials used to prevent the movement of liquids, sludges, solids, or other materials.

(50) [(39)] "Director" means the director of the cabinet's division of waste management.

(51) [(40)] "Discharge" means but is not limited to spilling, leaking, pumping, pouring, emitting, emptying, or dumping (KRS 224.877(a)).

(52) [(41)] "Disease vector" means all insects, birds or gnawing animals such as rats, mice or ground squirrels, which are capable of transmitting pathogens.

(53) [(42)] "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment, be emitted into the air or be discharged into any water, including groundwaters (KRS 224.005).

(54) [(43)] "Disposal facility" see "hazardous waste site or facility - disposal facility" or "solid waste site or facility-disposal facility".

(55) [(44)] "Elementary neutralization unit" see "hazardous waste site or facility - elementary neutralization unit."

(56) "Emergency permit" see "permit-emergency/permit".

(57) [(45)] "Endangered or threatened species" means any species listed as such pursuant to Section 4 of the Endangered Species Act, as amended, 16 U.S.C. 1536.

(58) [(46)] "Environmental emergency" includes any release or threatened release of materials into the environment in such quantities or concentrations as to cause or threaten to cause an imminent and substantial danger to human health or the environment; the term includes, but is not limited to, discharges of oil and hazardous substances prohibited by section 311(b)(3) of the federal Clean Water Act (P.L. 92-500), as amended (KRS 224.877(1)(d).

(59) [(47)] "EPA hazardous waste number" means the number assigned by EPA and the cabinet to each hazardous waste listed in 401 KAR 31:040, and to each characteristic identified in 401 KAR 31:030.

(60) [(48)] "EPA identification number" means the number assigned by EPA or the cabinet to each generator, transporter, and treatment, storage, or disposal facility.

(61) [(49)] "EPA region" means the states and territories found in any one (1) of the following ten (10) regions:

Region I - Maine, Vermont, New Hampshire, Massachusetts, Connecticut, and Rhode Island.

Region II - New York, New Jersey, Puerto Rico, and the Virgin Islands.

Region III - Pennsylvania, Delaware, Maryland, West Virginia, Virginia, and the District of Columbia.

Region IV - Kentucky, Tennessee, North Carolina, Mississippi, Alabama, Georgia, South Carolina, and Florida.

Region V - Minnesota, Wisconsin, Illinois, Michigan, Indiana, and Ohio.

Region VI - New Mexico, Oklahoma, Arkansas, Louisiana, and Texas.

Region VII - Nebraska, Kansas, Missouri, and Iowa.

Region VIII - Montana, Wyoming, North Dakota, South Dakota, Utah, and Colorado.

Region IX - California, Nevada, Arizona, Hawaii, Guam, American Samoa, and Commonwealth of Northern Mariana Islands.

Region X - Washington, Oregon, Idaho, and Alaska.

(62) [(50)] "Equivalent method" means any testing or analytical method, approved jointly by the administrator and the secretary under 401 KAR Chapter 31, or methods in 401 KAR 47:040 or 401 KAR 47:050, approved by the secretary of the cabinet.

(63) [(51)] "Existing hazardous waste site or facility" or "existing facility" means a hazardous waste facility which was in operation, or for which continuous construction had commenced, on or before November 19, 1980. A facility has commenced construction if:

(a) The owner or operator had obtained the federal, state and local approvals or permits necessary to begin physical construction; and

(b) Either:

1. A continuous on-site, physical construction program has begun; or

2. The owner or operator has entered into contractual obligations, which cannot be cancelled or modified without substantial loss, for physical construction of the facility to be completed within a reasonable time.

(64) [(52)] "Existing portion" means that land surface area of an existing hazardous waste management unit, included in the original Part A permit application, on which wastes have been placed prior to the issuance of a permit.

(65) "Existing tank system" see "hazardous waste management unit - hazardous waste tank-existing tank system."

(66) [(53)] "Explosive gas" means methane (CH_4) in 401 KAR 30:030, Section 1(1).

(67) "Existing unit" means any solid waste disposal unit that is receiving solid waste as

of the effective date of this regulation and has not received the final layers of cover material.

(68) [(54)] "Facility" means all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of waste. A facility may consist of several treatment, storage, or disposal operational units (e.g., one (1) or more landfills, surface impoundments, or combination of them).

(69) [(55)] "Facility structures" means any buildings and sheds or utility or drainage lines on the solid waste site or facility.

(70) [(56)] "Federal agency" means any department, agency, or other instrumentality of the federal government, any independent agency or establishment of the federal government including any government corporation, and the United States Government Printing Office.

(71) "Federal, state and local approvals or permits necessary to begin physical construction" means permits and approvals required under federal, state or local hazardous waste control statutes, regulations or ordinances.

(72) [(57)] "Final closure":

(a) Of a hazardous waste site or facility means the closure of all hazardous waste management units at the facility in accordance with all applicable closure requirements so that hazardous waste management activities under 401 KAR Chapters 34 and 35 are no longer conducted at the facility unless subject to the provisions in Section 5 of 401 KAR 32:030.

(b) Of a solid waste site or facility means the approved closure of a solid waste site or facility in accordance with the applicable requirements of 401 KAR 48:060, 401 KAR 48:090, 401 KAR 48:170 or 401 KAR 48:200 [47:040 or 401 KAR 47:050] and the environmental performance standards in 401 KAR 48:050 [30:030].

[(58) "Final cover" means cover material, soil or other suitable material, that is applied upon closure of a landfill or sanitary landfill and is permanently exposed to the natural elements.]

(73) [(59)] "Flood plain" means areas adjoining inland waters which are inundated by the base flood, unless otherwise specified in 401 KAR 47:040.

(74) [(60)] "Food chain crops" means tobacco, crops grown for human consumption, and crops grown for feed for animals whose products are consumed by humans.

(75) [(61)] "Freeboard" means the vertical distance between the top of a tank or surface impoundment dike and the surface of the waste contained therein.

(76) [(62)] "Free liquids" means liquids which readily separate from the solid portion of a waste under ambient temperature and pressure.

(77) [(63)] "Generator" means any person, by site, whose act or process produces hazardous waste identified or listed in 401 KAR Chapter 31 or whose act first causes a hazardous waste to become subject to regulation.

(a) "Small quantity generator" means a generator who generates more than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month.

(b) "Limited quantity generator" means a generator who generates less than 100 kilograms of hazardous waste in a calendar month.

(c) If a limited quantity generator generates acutely hazardous waste listed in Sections 2, 3, and 4(5) of 401 KAR 31:040 in a calendar month in quantities greater than one (1) kilogram, all quantities of that acutely hazardous waste are subject to regulation under 401 KAR Chapters 32 through 39, and the notification and permitting requirements of KRS 224.855 and 224.864 through 224.877.

(78) "Granted permit-by-rule" see "permit, granted permit-by-rule".

(79) [(64)] "Groundwater" means water which is in the zone of perennial saturation. It is differentiated from water held in the soil, from water in downward motion under the force of gravity in the perennially unsaturated zone, and from water held in chemical or electrostatic bondage. It is synonymous with the term "phreatic water."

(80) [(65)] "Groundwater table" means the upper boundary of the saturated zone in which the hydrostatic pressure of the groundwater is equal to the atmospheric pressure.

(81) [(66)] "Hazardous substance" means any substance or combination of substances including wastes of a solid, liquid, gaseous or semisolid form which, because of its quantity, concentration or physical, chemical or infectious characteristics, may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or pose a substantial present or potential hazard to human health or the environment. Such substances may include but are not limited to those which are, according to criteria established by the cabinet, toxic, corrosive, ignitable, irritants, strong sensitizers or explosive (KRS 224.877(b)).

(82) [(67)] "Hazardous waste constituent" means a constituent that caused the cabinet to list the hazardous waste in 401 KAR 31:040, or a constituent listed in Section 5(3) of 401 KAR 31:030.

(83) [(68)] "Hazardous waste management" means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous waste.

(84) [(69)] "Hazardous waste management unit" is a contiguous area of land on or in which hazardous waste is placed, or the largest area in which there is significant likelihood of mixing hazardous waste constituents in the same area. Examples of hazardous waste management units include a surface impoundment, a waste pile, a land treatment area, a landfill cell, an incinerator, a tank and its associated piping and underlying containment system and a container storage area. A container alone does not constitute a unit; the unit includes containers and the land or pad upon which they are placed.

(a) Hazardous waste tanks.

1. "Aboveground tank" means a device meeting the definition of "tank" in this section and that is situated in such a way that the entire surface area of the tank is completely above the plane of the adjacent surrounding surface and the entire surface area of the tank (including the tank bottom) is able to be visually inspected.

2. "Component" means either the tank or ancillary equipment of a tank system.

3. "Existing tank system" or "existing component" means a tank system or component that is used for the storage or treatment of hazardous waste and that is in operation, or for which installation has commenced on or prior to

July 14, 1986. Installation will be considered to have commenced if the owner or operator has obtained all federal, state, and local approvals or permits necessary to begin physical construction of the site or installation of the tank system and if either:

a. A continuous on-site physical construction or installation program has begun; or

b. The owner or operator has entered into contractual obligations - which cannot be cancelled or modified without substantial loss - for physical construction of the site or installation of the tank system to be completed within a reasonable time.

4. "In-ground tank" means a device meeting the definition of "tank" in this section whereby a portion of the tank wall is situated to any degree within the ground, thereby preventing visual inspection of that external surface area of the tank that is in the ground.

5. "New tank system" or "new tank component" means a tank system or component that will be used for the storage or treatment of hazardous waste and for which installation has commenced after July 14, 1986 except, however, for purposes of Section 4(7)(b) of 401 KAR 34:190 and Section 4(7)(b) of 401 KAR 35:190, a new tank system is one for which construction commences after July 14, 1986. (See also "existing tank system".)

6. "On-ground tank" means a device meeting the definition of "tank" in this section and that is situated in such a way that the bottom of the tank is on the same level as the adjacent surrounding surface so that the external tank bottom cannot be visually inspected.

7. "Tank system" means a hazardous waste storage or treatment tank and its associated ancillary equipment and containment system.

8. "Underground tank" means a device meeting the definition of "tank" in this section whose entire surface area is totally below the surface of and covered by the ground.

9. "Unfit-for-use tank system" means a tank system that has been determined through an integrity assessment or other inspection to be no longer capable of storing or treating hazardous waste without posing a threat of release of hazardous waste to the environment.

(85) [(70)] "Hazardous waste site or facility" means any place at which hazardous waste is treated, stored, [and/]or disposed of by landfilling, incineration, or any other method.

(a) "Boiler" means an enclosed device using control flame combustion and having the following characteristics:

1.a. The unit must have physical provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases; and

b. The unit's combustion chamber and primary energy recovery section(s) must be of integral design. To be of integral design, the combustion chamber and the primary energy recovery section(s) (such as water walls and superheaters) must be physically formed into one (1) manufactured or assembled unit. A unit in which the combustion chamber and the primary energy recovery section(s) are joined only by ducts or connections carrying flue gas is not integrally design, however, secondary energy recovery equipment (such as economizers or air preheaters) need not be physically formed into the same unit as the combustion chamber and the primary energy recovery section. The following units are not precluded from being boilers solely because they are not of integral design: process heaters (units that transfer energy directly to a process stream), and fluidized bed combustion units; and

c. While in operation, the unit must maintain a thermal energy recovery efficiency of at least sixty (60) percent, calculated in terms of the recovered energy compared with the thermal value of the fuel; and

d. The unit must export and utilize at least seventy-five (75) percent of the recovered energy, calculated on an annual basis. In this calculation, no credit shall be given for recovered heat used internally in the same unit. (Examples of internal use are the preheating of fuel or combustion air, and the driving of induced or forced draft fans or feedwater pumps); or

2. The unit is one (1) which the cabinet has determined, on a case-by-case basis, to be a boiler, after considering the standards in 401 KAR 30:080.

(b) "Disposal facility" means a facility or part of a facility at which hazardous waste is intentionally placed into or on any land or water and at which waste will remain after closure.

(c) "Elementary neutralization unit" means a tank, container, transport vehicle, or vessel which is used for neutralizing wastes which are hazardous wastes only because they exhibit the corrosivity characteristic defined in 401 KAR Chapter 31 or are wastes listed in 401 KAR Chapter 31 only for this reason.

(d) "Incinerator" means any enclosed device using controlled flame combustion that neither meets the criteria for classification as a boiler nor is listed as an industrial furnace.

(e) "Industrial furnace" means any of the following enclosed devices that are integral components of manufacturing processes and that use controlled flame devices to accomplish recovery of materials or energy:

1. Cement kilns.
2. Lime kilns.
3. Aggregate kilns.
4. Phosphate kilns.
5. Coke ovens.
6. Blast furnaces.
7. Smelting, melting, and refining furnaces (including pyrometallurgical devices such as cupolas, reverberator furnaces, sintering machines, roasters, and foundry furnaces).
8. Titanium dioxide chloride process oxidation reactors.
9. Methane reforming furnaces.
10. Pulping liquor recovery furnaces.
11. Combustion devices used in the recovery of sulfur values from spent sulfuric acid.
12. Such other devices as the cabinet may, after notice and comment, add to this list on the basis of criteria and Section 5 of 401 KAR 30:080.

(f) "Injection well" means a well into which fluids are injected to achieve subsurface emplacement.

(g) "Landfill" means a disposal facility or part of a facility where hazardous waste is placed in or on land and which is not a pile, a land treatment facility, a surface impoundment, or an underground injection well, a salt dome formation, a salt bed formation, an underground mine, or a cave.

(h) "Land treatment facility" means a facility

or part of a facility at which hazardous waste is applied onto or incorporated into the soil surface; such facilities are disposal facilities if the waste will remain after closure.

(i) "Miscellaneous unit" means a hazardous waste management unit where hazardous waste is treated, stored, or disposed of and that is not a container, tank, surface impoundment, pile, land treatment unit, landfill, incinerator, boiler, industrial furnace, underground injection well with appropriate technical standards under 40 CFR Part 146, or unit eligible for a research, development, and demonstration permit under 401 KAR 38:060, Section 6.

(j) [(i)] "Pile" or "waste pile" means any noncontainerized accumulation of solid, nonflowing hazardous waste that is used for treatment or storage.

(k) [(j)] "Storage facility" means a facility or part of a facility at which hazardous waste is held for a temporary period, at the end of which the hazardous waste is treated, disposed, or stored elsewhere. A generator who accumulates his own hazardous wastes in an approved manner for less than ninety (90) days for subsequent transport on site or off site is not operating or maintaining a storage facility.

(l) [(k)] "Surface impoundment" means a facility or part of a facility which is a natural topographic depression, manmade excavation, or diked area formed primarily of earthen materials (although it may be lined with manmade materials), which is designed to hold an accumulation of liquid wastes or wastes containing free liquids, and which is not an injection well. Examples of surface impoundments are holding, storage, settling, and aeration pits, ponds, and lagoons.

(m) [(l)] "Tank" means a stationary device designed to contain an accumulation of hazardous waste which is constructed primarily of nonearthen materials (e.g., wood, concrete, steel, plastic) which provide structural support.

(n) [(m)] "Thermal treatment facility" means a facility or part of a facility which uses elevated temperatures as the primary means to change the chemical, physical or biological character or composition of hazardous waste. Examples of thermal treatment processes are incineration, molten salt, pyrolysis, calcination, wet air oxidation, and microwave discharge.

(o) [(n)] "Totally enclosed treatment facility" means a facility for the treatment of hazardous waste which is directly connected to an industrial production process and which is constructed and operated in a manner which prevents the release of any hazardous waste or any constituent thereof into the environment during treatment. An example is a pipe in which acid is neutralized.

(p) [(o)] "Treatment facility" means a facility or part of a facility using any method, technique or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste, or so as to recover energy or material resources from the waste, or so as to render such waste nonhazardous or less hazardous; safer to transport, store, or dispose of; or amenable for recovery, amenable for storage, or reduced in volume.

(q) [(p)] "Wastewater treatment unit" means a tank which is part of a wastewater treatment facility which is subject to regulation under either Section 402 or Section 307(b) of the Clean Water Act of 1972 and which receives, treats, stores, generates, or accumulates influent wastewater or receives, stores, treats, generates or accumulates wastewater treatment sludge, either of which is a hazardous waste.

(86) [(71)] "Holocene" means the most recent epoch of the quaternary period, extending from the end of the pleistocene to the present.

(87) [(72)] "Inactive portion" means that portion of a hazardous waste site or facility which is not operated after November 19, 1980.

(88) [(73)] "Incinerator" see "hazardous waste site or facility - incinerator" or "solid waste site or facility-incinerator".

(89) [(74)] "Incompatible waste" means a hazardous waste which is unsuitable for placement in a particular device or facility because it may cause corrosion or decay of containment materials, or unsuitable for commingling with another waste or material under uncontrolled conditions because the commingling might produce heat or pressure, fire or explosion, violent reaction, toxic dusts, mists, fumes, or gases, or flammable fumes or gases.

(90) [(75)] "Individual generation site" means the contiguous site at or on which one (1) or more hazardous wastes are generated. An individual generation site, such as a large manufacturing plant, may have one (1) or more sources of hazardous waste but is considered a single or individual generation site if the site or property is contiguous.

(91) [(76)] "Industrial furnace" see "hazardous waste site or facility - industrial furnace."

(92) "Industrial solid waste" means solid waste generated by manufacturing or industrial processes that is not a hazardous waste regulated under 401 KAR Chapters 32 through 39. Such waste may include, but is not limited to, waste resulting from the following manufacturing processes: electric power generation; fertilizer or agricultural chemicals; food and related products or by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include mining waste or oil and gas waste.

(93) [(77)] "Inert landfill" see "solid waste site or facility - inert landfill."

(94) [(78)] "Infectious waste" means those wastes which may cause disease or reasonably be suspected of harboring pathogenic organisms; included are wastes resulting from the operation of medical clinics, hospitals, and other facilities producing wastes which may consist of, but are not limited to, diseased human and animal parts, contaminated bandages, pathological specimens, hypodermic needles, contaminated clothing, and surgical gloves.

(95) "Inground tank" see "hazardous waste management unit - hazardous waste tank - inground tanks" or "solid waste site or facility-tanks-inground tanks".

(96) [(79)] "Injection well" see "hazardous waste site or facility - injection well" or "solid waste site or facility-injection well".

(97) [(80)] "Inner liner" means a continuous

layer of material placed inside a tank or container which protects the construction materials of the tank or container from the contained hazardous waste or reagents used to treat the hazardous waste.

(98) [(81)] "In operation" refers to a facility which is treating, storing, or disposing of hazardous waste.

(99) [(82)] "Installation inspector" means a person who, by reason of his knowledge of the physical sciences and the principles of engineering, acquired by a professional education and related practical experience, is qualified to supervise the installation of a hazardous waste management unit including tank systems.

(100) [(83)] "Interim status" means the designation of a hazardous waste site or facility which was in existence on November 19, 1980, and has submitted a Part A application under 401 KAR Chapter 38 or under 40 CFR Part 270 and is treated as having a permit until such time as final administrative disposition of such application is made.

(101) [(84)] "International shipment" means the transportation of hazardous waste into or out of the jurisdiction of the United States.

(102) "Karst terrain" means a type of topography where limestone, dolomite or gypsum is present and is characterized by naturally occurring closed topographic depressions or sinkholes, caves, disrupted surface drainage, and well developed underground solution channels formed by dissolution of these rocks by water moving underground.

(103) [(85)] "KPDES" means Kentucky Pollutant Discharge Elimination System.

(104) [(86)] "Lab pack" means any large container equal to or smaller than fifty-five (55) gallons that holds many smaller containers of various content tightly secured with packing material.

(105) [(87)] "Landfarming facility" see "solid waste site or facility - landfarming facility."

(106) [(88)] "Landfill" see "hazardous waste site or facility - landfill."

(107) [(89)] "Landfill cell" means a discrete volume of a hazardous waste landfill which uses a liner to provide isolation of wastes from adjacent cells or wastes. Examples of landfill cells are trenches and pits.

(108) [(90)] "Land treatment facility" see "hazardous waste site or facility-land treatment facility."

(109) "Lateral expansion" means a horizontal expansion of the waste boundaries of an existing solid waste landfill unit.

(110) [(91)] "Leachate" means any liquid including any suspended components in the liquid, that has percolated through or drained from waste.

(111) [(92)] "Leak-detection system" means a system capable of detecting the failure of either the primary or secondary containment system or the presence of a release of hazardous waste, hazardous waste constituents or accumulated liquid in the secondary containment system. Such a system must employ operational controls (e.g., daily visual inspections for releases into the secondary containment system of aboveground tanks) or consist of an interstitial monitoring device designed to detect continuously and automatically the failure of the primary or secondary containment system or the presence of a release of hazardous waste constituents or accumulated liquids into the secondary containment system.

(112) "Limited quantity generator" see "generator-limited quantity generator."

(113) [(93)] "Liner" means a continuous layer of natural or manmade material, beneath or on the sides of a hazardous or solid waste site or facility, including but not limited to a waste pile, surface impoundment, landfill, or landfill cell, or beneath or on the sides of a [solid] waste site or facility which restricts the movement of the wastes, waste constituents, or leachate.

(114) [(94)] "Lower explosive limit" means the lowest percent by volume of a mixture of explosive gases which will propagate a flame in air at twenty-five (25) degrees Celsius and atmospheric pressure.

(115) "Management facility" see "solid waste site or facility-management facility".

(116) [(95)] "Major modification" means a change in ownership where the cabinet determines that other changes in the permit are necessary as a result of the change in ownership or operational control, area occupied, disposal method, or other significant change in the operation of a waste site or [management] facility. (Note: Minor modifications are described in Section 3 of 401 KAR 38:040 for hazardous waste sites or facilities and Section 3 of 401 KAR 47:130 for solid waste sites or facilities.)

(117) [(96)] "Manifest" means the shipping document form contained in Appendix A of 401 KAR 32:100, and if necessary the form contained in Appendix B of 401 KAR 32:100, originated and signed by the generator in accordance with the instructions included in 401 KAR 32:100.

(118) [(97)] "Manifest document number" means the U.S. EPA twelve (12) digit identification number assigned to the generator plus a unique, serially increasing, five (5) digit document number assigned to the manifest by the generator for recordkeeping and reporting purposes.

(119) [(98)] "Mining overburden returned to the mine site" means any material overlying an economic mineral deposit which is removed to gain access to that deposit and is then used for reclamation of a surface mine.

(120) "Miscellaneous unit" see "hazardous waste site or facility - miscellaneous unit" or "solid waste site or facility - miscellaneous unit".

(121) [(99)] "Monitoring" means the act of systematically inspecting and collecting data on operational parameters or on the quality of the air, soil, groundwater, or surface water.

(122) [(100)] "Monitoring well" means a well used to obtain water samples for water quality and quantity analysis and groundwater levels.

(123) [(101)] "Movement" means that hazardous waste transported to a facility in an individual vehicle.

(124) [(102)] "NPDES" means National Pollutant Discharge Elimination System (KRS 224.005(29)).

(125) [(103)] "New" means any hazardous waste site or facility that commenced construction after November 19, 1980.

(126) "New tank system" see "hazardous waste management unit-hazardous waste tank-new tank system".

(127) "Notice of intent to apply for a solid waste permit" see "application - notice of intent to apply for a solid waste permit".

(128) [(104)] "Off-site" means properties

noncontiguous to the generation site.

(129) "Onground tanks" see "hazardous waste management unit - hazardous waste tanks - onground tanks" or "solid waste site or facility - tank - onground tanks".

(130) [(105)] "On-site" means on the same or geographically contiguous property which may be divided by public or private right-of-way, provided the entrance and exit between the properties is at a crossroads intersection, and access is by crossing, as opposed to going along the right-of-way. Noncontiguous properties owned by the same person but connected by a right-of-way which he controls and to which the public does not have access is also considered on-site property.

(131) [(106)] "100 year flood" means a flood that has a one (1) percent or one (1) in 100 or greater chance of recurring in any year, or a flood of a magnitude equaled or exceeded once in 100 years on the average over a significantly long period, taking into consideration the present engineering aspect of the flood plain.

(132) [(107)] "Open burning" means the combustion of any material or solid waste without:

(a) Control of combustion air to maintain adequate temperature for efficient combustion;

(b) Containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion; and

(c) Control of emission of the gaseous combustion products.

(133) [(108)] "Open dump" means any facility or site for the disposal of solid waste which does not meet the criteria for a sanitary landfill under regulations promulgated by the cabinet which shall be consistent with regulations promulgated under section 4004, Resource Conservation and Recovery Act of 1976, as amended (P.L. 94-580), and which is not a facility for disposal of hazardous waste (KRS 224.005).

(134) [(109)] "Operational plan" means the approved plan of operations filed with the cabinet which describes the method of operation that the permittee will use in the treatment, storage, and/or disposal of wastes.

(135) "Operator" means any person responsible for overall operation of an on-site or off-site waste facility, including any private contractor conducting operational activities at a federal facility.

(136) [(110)] "Owner[/operator of a waste facility]" means any person who owns [the owner of] an on-site or off-site waste [treatment, storage, or disposal] facility, or any part of a facility [as well as any person with whom rests ultimate decision-making authority over the facility].

(137) "Part A of the application" or "Part A" see "application - Part A application".

(138) "Part B of the application" or "Part B" see "application - Part B application".

(139) [(113)] "Partial closure" means the closure of a hazardous waste management unit in accordance with the applicable closure requirements of 401 KAR Chapters 34 and 35 at a facility that contains other active hazardous waste management units. For example, partial closure may include the closure of a tank (including its associated piping and underlying containment systems), landfill cell, surface impoundment, waste pile, or other hazardous waste management unit, while other units of the same facility continue to operate.

(140) [(114)] "Periodic application of cover material" means the application and compaction of soil or other suitable material over disposed waste at a solid waste site or facility at the end of each operating day or at such frequencies and in such a manner as to reduce the risks of fire and to impede disease vector's access to the waste.

(141) [(115)] "Permit" means the authorization or other control document issued by the cabinet to implement the requirements of the waste management regulations. The term "permit" includes also "permit by rule," and "emergency permit." However, the term "permit" does not include "draft permit" or a "proposed permit."

(a) "Emergency permit" means a permit issued by the cabinet to temporarily store, treat or dispose of hazardous waste in accordance with the provisions of Section 2 of 401 KAR 38:060, or to temporarily manage, process, or dispose of a solid waste in accordance with the provisions of Section 2 of 401 KAR 47:150 [Section 2].

(b) "Permit by rule" means that certain classes of sites or facilities are presumed to hold a permit so long as the operations of such sites or facilities do not present a threat of imminent hazard to public health or a substantial environmental impact, in violation of any of the environmental performance standards specified in 401 KAR 30:020 or 47:030 [30:030] or the maximum groundwater contaminant levels specified in Section 5 of 401 KAR 34:060. Both hazardous and solid waste sites or facilities may be considered to hold a permit by rule.

1. Examples of hazardous waste sites or facilities which are permitted by rule include facilities operating under an interim status permit and facilities identified in Section 1 of 401 KAR 38:060.

2. Examples of solid waste sites or facilities which are permitted by rule include facilities identified in [Section 1(4) of] 401 KAR 47:150 [47:020 and Section 1(2) of 401 KAR 47:050].

(c) "Granted permit by rule" means that certain classes of solid waste sites or facilities as specified in 401 KAR 47:080 have a permit as required in 401 KAR 47:110 or 401 KAR 48:200.

(d) "Research, development and demonstration permit" means a solid waste treatment or disposal facility using innovative and experimental technology as specified in Sections of 401 KAR 47:150.

(142) [(116)] "Permittee" means any person holding a valid permit issued by the cabinet to manage, treat, store, and/or dispose of waste.

(143) [(117)] "Person" means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, federal agency, state agency, city, commission, political subdivision of the Commonwealth, or any interstate body (KRS 224.005).

(144) [(118)] "Personnel" or "facility personnel" means all persons who work at or oversee the operations of a waste facility, and whose actions or failure to act may result in noncompliance with the requirements of the waste management regulations.

(145) [(119)] "Pile" see "hazardous waste site or facility - pile" or "solid waste site or facility - pile". [subsection (63)(g) of this

section.]

(146) [(120)] "Point source" means any discernible, confined, and discrete conveyance including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

(147) [(121)] "Postclosure care" means the manner in which a facility must be maintained when it no longer accepts hazardous waste for disposal.

(148) [(122)] "Postclosure monitoring and maintenance" means the routine care, maintenance and monitoring of a solid waste disposal facility or hazardous waste treatment, storage, or disposal facility following closure of the facility.

(149) [(123)] "Preventive measures" means the installation or testing of equipment or devices, designated way of performing a specified operation or the preparation of an emergency response plan (KRS 224.877(c)).

(150) "Processing facility" see "solid waste site or facility - processing facility".

(151) "Proposed permit" means a document prepared under Section 3 of 401 KAR 47:140 indicating the cabinet's tentative decision to issue or deny, modify, revoke or terminate a permit. A notice of intent to terminate a permit and a notice of intent to deny a permit as discussed in Section 2 of 401 KAR 47:140 are types of proposed permits. A denial of a request for modification, revocation or termination as discussed in Section 2 of 401 KAR 47:140 is not a proposed permit.

(152) [(124)] "Publicly owned treatment works" or "POTW" means any device or system used in the treatment (including recycling and recovery) of any municipal sewage or industrial wastes of a liquid nature which is owned by the Commonwealth or a political subdivision of the Commonwealth (KRS 224.005).

(153) [(125)] "Putrescible" means susceptible to rapid decomposition by bacteria, fungi, or oxidation sufficient to cause nuisances such as odors, gases, or other offensive conditions.

(154) [(126)] "Recharge zone" means an area supplying the water which enters an underground drinking water source.

(155) [(127)] "Reclaimed" see Section 1 of 401 KAR 31:010.

(156) [(128)] "Recovered material" means waste material and by-products which have been recovered or diverted from waste, but does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process (KRS 224.005).

(157) [(129)] "Recycling" means any treatment process for the reclamation of material or energy from waste (KRS 224.005). See also Section 1 of 401 KAR 31:010.

(158) "Recycling center" see "solid waste site or facility - recycling center".

(159) "Recycling facility" see "solid waste site or facility - recycling facility".

(160) [(130)] "Regional Administrator" means the regional administrator for the EPA region in which the facility is located, or his designee.

(161) [(131)] "Regional integrated waste treatment and disposal demonstration facility" means a model hazardous waste facility receiving wastes from a region larger than the county boundaries in which it is located, from more than one (1) person, and utilizing multiple treatment and disposal technologies, one (1) of which must be a secure landfill, and one (1) of which must be a high technology incinerator, and designed so as to promote resource recovery and energy generation from hazardous waste and the use of state-of-the-art techniques for rendering waste nonhazardous, and the disposal of waste in a manner that minimizes the risk to public health and long term environmental impacts (KRS 224.2201(4)).

(162) [(132)] "Regulated unit" means hazardous waste land disposal sites or facilities, or portions of existing hazardous waste land disposal sites or facilities that continue to receive waste after January 26, 1983.

(163) "Research, development and demonstration permit" see "permit - research, development and demonstration permit".

(164) [(133)] "Residential landfill" see "solid waste site or facility - residential landfill."

(165) [(134)] "Residual landfill" see "solid waste site or facility - residual landfill."

(166) [(135)] "Representative sample" means a sample of a universe or whole (e.g., waste pile, lagoon, groundwater) which can be expected to exhibit the average properties of the universe or whole.

(167) [(136)] "Resource recovery" means the recovery of material or energy from waste.

(168) [(137)] "Run-off" means any rainwater, leachate, or other liquid that drains overland from any part of a facility.

(169) [(138)] "Run-on" means any rainwater, leachate, or other liquid that drains overland onto any part of a facility.

(170) [(139)] "Salvaging" means the controlled removal of waste materials for utilization in a manner approved by the cabinet.

(171) "Sanitary landfill" see "solid waste site or facility - sanitary landfill".

(172) [(141)] "Saturated zone (zone of saturation)" means that part of the earth's crust containing groundwater in which all voids, large and small, are filled with liquid.

(173) [(142)] "Scavenging" means the removal of waste materials from a waste management site or facility in a manner deemed by the cabinet to be dangerous to the health and safety of any person.

(174) "Schedule of compliance" means a schedule of remedial measures included in a permit, including an enforceable sequence of interim requirements (for example, actions, operations, or milestone events) leading to compliance with KRS Chapter 224 and the waste management regulations.

(175) [(143)] "Scrap metal" see Section 1 of 401 KAR 31:010.

(176) [(144)] "Secretary" means the secretary of the Natural Resources and Environmental Protection Cabinet (KRS 224.005).

(177) "Site" means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the waste facility or activity.

(178) [(145)] "Sludge" means any solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility exclusive of the treated effluent from a wastewater treatment

plant or any other such waste having similar characteristics and effects.

(179) "Small quantity generator" see "generator - small quantity generator".

(180) [(146)] "Solid waste management" means the administration of solid waste activities: collection, source separation, storage, transportation, transfer, processing, treatment and disposal, which shall be in accordance with a departmentally approved county or multicounty solid waste management plan (KRS 224.005).

(181) [(147)] "Solid waste management area" or "area" means any county or group of counties so designated by the cabinet by approval of the local solid waste management plan (KRS 224.005).

(182) [(148)] "Solid waste management facility" means any resource recovery system or component thereof, any system, program or facility for resource conservation, and any facility for collection, source separation, storage, transportation, transfer, processing, treatment or disposal of solid waste, whether such facility is associated with facilities generating such wastes or otherwise (KRS 224.005).

(183) [(149)] "Solid waste site or facility" means any place at which solid waste is managed, processed or disposed by landfilling, incineration, landfarming or any other method. The term includes the following: [one (1) of the four (4) categories of sanitary landfills or a land farming facility permitted by the cabinet for the disposal of solid waste involving the placement of solid waste on or into the land surface as follows:]

(a) "Construction/demolition debris landfill" means a solid waste site or facility for the disposal of solid waste resulting from the construction, remodeling, repair and demolition of structures and roads, and for the disposal of uncontaminated solid waste consisting of vegetation resulting from land clearing and grubbing, utility line maintenance and seasonal and storm related cleanup. Such waste includes, but is not limited to, bricks, shredded or segmented tires, concrete and other masonry materials, soil, rock, wood, wall coverings, plaster, drywall, plumbing fixtures, tree stumps, limbs, saw dust, leaves, yard waste, paper, paper products, metals, furniture, insulation, roofing shingles, asphaltic pavement, glass, plastics that are not sealed in a manner that conceals other wastes, electrical wiring and components containing no liquids or hazardous metals that are incidental to any of the above and other inert waste as approved by the cabinet. Asbestos containing materials may be accepted only if the permit application includes procedures approved by the cabinet to handle these materials. Construction/demolition debris landfills shall not be for disposal of garbage, electrical fixtures containing hazardous liquids such as fluorescent light ballasts or transformers, PCB containing waste, hazardous material spill residues, limited quantity generator hazardous waste, or any waste regulated by 401 KAR Chapters 31 and 32, whole tires, liquids, drums, fuel tanks, or other nonpermitted wastes. The technical requirements for construction/demolition debris landfills are found in 401 KAR 48:050 and 401 KAR 48:060.

(b) [(c)] "Contained landfill" means a solid waste site or facility which accepts for disposal all nonhazardous solid waste including residential, commercial, institutional, industrial, municipal waste and shredded tires. Contained landfills may also accept, with approval from the cabinet, household hazardous waste, limited quantity generator hazardous waste and spill cleanup residues that are not hazardous waste. The technical requirements for contained landfills are found in 401 KAR 48:050 and 401 KAR 48:070 through 401 KAR 48:090. [facility for the proper disposal of solid waste including those industrial wastes, special wastes, or hazardous wastes exempted by regulation and any nonhazardous waste without case-by-case approval from the cabinet.]

(c) "Convenience center" means a facility that is manned during operation hours for the collection and mechanical compaction of domestic wastes transported in from individual households not via municipal or commercial collection vehicles.

(d) "Disposal facility" means a facility or part of a facility at which solid waste is intentionally placed into or on any land or water and at which waste will remain after closure.

(e) "Incinerator" means any enclosed device using controlled flame combustion for burning solid waste.

(f) "Injection well" means a well into which fluids are injected to achieve subsurface emplacement.

(g) [(e)] "Landfarming facility" means a facility for land application of sludges or other residual waste by any method for purposes of disposal. It can be on any piece or pieces of land and may improve the physical and chemical qualities of the land for agricultural purposes, but does not alter the topography of the application area as revealed by contours and will not disturb the soil below three (3) feet from the surface.

(h) "Management facility" means a facility or part of a facility at which solid waste is held for a temporary period, at the end of which solid waste is processed, disposed or managed elsewhere.

(i) "Miscellaneous unit" means a solid waste management unit where waste is disposed of and that is not a container, tank, surface impoundment, pile, landfarming unit, landfill, incinerator, underground injection well with appropriate technical standards under 40 CFR Part 146, or unit eligible for a research, development, and demonstration permit under Section 3 of 401 KAR 47:150.

(j) "Pile" or "waste pile" means any noncontainerized accumulation of nonflowing solid waste that is used for processing or management.

(k) "Processing facility" means a facility or part of a facility using any method, technique or procedure, including neutralization, designed to change the physical, chemical, or biological character or composition of any solid waste so as to neutralize such waste, or so as to recover energy or material resources from the waste, or so as to render such waste less hazardous; safer to transport, store, or dispose of; or amenable for recovery, amenable for handling or reduced in volume.

(l) "Recycling center" means a facility or a part of a facility at which solid waste is managed by separating the solid waste into groups amenable for the recovery of material or energy. This term does not include recycling facilities.

(m) "Recycling facility" means a facility or a part of a facility at which solid waste is processed to reclaim material or energy from the solid waste.

(n) [(d)] "Residual landfill" means a facility for the disposal of specific solid waste(s), including special waste, which is located, designed, constructed, operated, maintained and closed in conformance with the "Environmental performance standards" in 401 KAR 47:030 [30:030, Section 1(1)] and which receives a case-by-case design review by the cabinet.

(o) [(140)] "Sanitary landfill" means a facility for the disposal of solid waste which complies with the "environmental performance standards" specified in 401 KAR 47:030 [30:030].

(p) "Surface impoundment" means a facility or part of a facility which is a natural topographic depression, manmade excavation, or diked area formed primarily of earthen materials (although it may be lined with manmade materials), which is designed to hold an accumulation of liquid wastes or wastes containing free liquids, and which is not an injection well. Examples of surface impoundments are holding, storage, settling, and aeration pits, ponds, and lagoons.

(q) "Tank" means a stationary device designed to contain an accumulation of leachate or liquid solid waste which is constructed primarily of nonearthen materials (e.g., wood, concrete, steel, plastic) which provide structural support.

1. "Aboveground tank" means a device meeting the definition of "tank" in this subsection and that is situated in such a way that the entire surface area of the tank is completely above the plane of the adjacent surrounding surface and the entire surface area of the tank (including the tank bottom) is able to be visually inspected.

2. "Component" means either the tank or ancillary equipment of a tank system.

3. "Inground tank" means a device meeting the definition of "tank" in this subsection whereby a portion of the tank wall is situated to any degree within the ground, thereby preventing visual inspection of that external surface area of the tank that is in the ground.

4. "Onground tank" means a device meeting the definition of "tank" in this subsection and that is situated in such a way that the bottom of the tank is on the same level as the adjacent surrounding surface so that the external tank bottom cannot be visually inspected.

5. "Tank system" means a solid waste tank and its associated piping, ancillary equipment and containment system.

6. "Underground tank" means a device meeting the definition of "tank" in this subsection whose entire surface area is totally below the surface of and covered by the ground.

7. "Unfit-for-use tank system" means a tank system that has been determined through an integrity assessment or other inspection to be no longer capable of managing or processing solid waste without posing a threat of release of waste to the environment.

(r) "Transfer facility" means any transportation related facility including loading docks, parking areas, and other similar areas where shipments of solid waste are held or transferred during the normal course of transportation.

(s) "Unit" or "solid waste unit" means a contiguous area of land on or in which solid waste is placed, or the largest area in which there is significant likelihood of mixing waste constituents in the same area. Examples of solid waste units include a surface impoundment, a waste pile, a land processing area, a landfill cell, an incinerator, a tank and its associated piping and underlying containment system and a container storage area. A container alone does not constitute a unit; the unit includes containers and the land or pad upon which they are placed.

(t) "Wastewater treatment unit" means a tank which is part of a wastewater treatment facility which is subject to regulation under either Section 402 or Section 307(b) of the Clean Water Act of 1972 and which receives, treats, stores, generates, or accumulates influent wastewater or receives, manages, processes, generates or accumulates wastewater treatment sludge, either of which is a solid waste.

(u) The following classifications are being phased out:

1. [(a)] "Inert landfill" means a facility for the proper disposal of inert, nonsoluble and nonputrescible solid waste, including construction materials, certain industrial or special wastes, and other waste material with specific approval from the cabinet. Certain putrescible wood product wastes (such as cardboard, paper, sawdust, wood chips, and tree trimmings, etc.) may be considered by the cabinet for disposal at inert landfills.

2. [(b)] "Residential landfill" means a facility for the proper disposal of solid waste including residential waste, commercial waste, institutional waste, and those sludges, industrial or special waste with specific approval from the cabinet.

(184) "Solid waste unit" see "solid waste site or facility - unit".

(185) [(150)] "Special wastes" means those wastes of high volume and low hazard which include, but are not limited to, mining waste, utility wastes (fly ash, bottom ash, scrubber sludge), sludge from water treatment facilities and waste water treatment facilities, cement kiln dust, gas and oil drilling muds and oil production brines (KRS 224.868(1)(a)).

(186) [(151)] "Spent material" see Section 1 of 401 KAR 31:010.

(187) [(152)] "Spill" means any accidental spilling, leaking, pumping, pouring, emitting, or dumping of hazardous wastes or materials which, when spilled, become hazardous wastes into or on any land or water.

(188) [(153)] "State" means any of the fifty (50) states, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Northern Mariana Islands or Guam but does not include any foreign country.

(189) [(154)] "Storage facility" see "hazardous waste site or facility - storage facility."

(190) [(155)] "Storage of hazardous waste" means the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed, or stored elsewhere.

(191) [(156)] "Sump" means any pit or reservoir that meets the definition of tank and those troughs/trenches connected to it that serves to collect hazardous waste for transport to hazardous waste management units.

(192) [(157)] "Surface impoundment" see "hazardous waste site or facility - surface

impoundment", and "solid waste site or facility - surface impoundment".

(193) [(158)] "Tank" see "hazardous waste site or facility - tank" or "solid waste site or facility - tank".

(194) "Tank system" see "hazardous waste management unit - hazardous waste tank - tank system" or "solid waste sites or facility - tank system".

(195) "Technical application" see "application - technical application".

(196) [(159)] "Termination" means the final actions taken by the cabinet as to a solid waste or hazardous waste treatment, storage or disposal site or facility when formal responsibilities for postclosure monitoring and maintenance cease (KRS 224.005).

(197) [(160)] "Thermal treatment" means the treatment of hazardous waste in a device which uses elevated temperatures as the primary means to change the chemical, physical, or biological character or composition of the hazardous waste. Examples of thermal treatment processes are incineration, molten salt, pyrolysis, calcination, wet air oxidation, and microwave discharge (see also "incinerator" and "open burning").

(198) [(161)] "Thermal treatment facility" see "hazardous waste site or facility - thermal treatment facility."

(199) [(162)] "Totally enclosed treatment facility" see "hazardous waste site or facility - totally enclosed treatment facility."

(200) [(163)] "Transfer facility" means any transportation related facility including loading docks, parking areas, storage areas, and other similar areas where shipments of hazardous or solid waste are held during the normal course of transportation.

(201) [(164)] "Transport vehicle" means a motor vehicle or rail car used for the transportation of cargo by any mode. Each cargo-carrying body (trailer, railroad freight car, etc.) is a separate transport vehicle.

(202) [(165)] "Transportation" means any off-site movement of waste by any mode, and any loading, unloading, or storage incidental thereto (KRS 224.005).

(203) [(166)] "Transporter" means a person engaged in the off-site transportation of hazardous waste by air, rail, highway or water.

(204) [(167)] "Treatment" means any method, technique, or process including neutralization, designed to change the physical, chemical, or biological character or composition of any waste so as to neutralize such waste or so as to render such waste nonhazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous (KRS 224.005).

(205) [(168)] "Treatment facility" see "hazardous waste site or facility - treatment facility."

(206) [(169)] "Treatment zone" means a soil area of the unsaturated zone of a land treatment unit within which hazardous constituents are degraded, transformed, or immobilized.

(207) [(170)] "Trenching or burial operation" means the placement of sewage sludge or septic tank pumpings in a trench or other natural or manmade depression and the covering with soil or other suitable material at the end of each operating day such that the waste does not migrate to the surface.

(208) [(171)] "Underground drinking water source" means:

(a) An aquifer supplying drinking water for human consumption; or

(b) An aquifer in which the groundwater contains less than 10,000 mg/l total dissolved solids.

(209) [(172)] "Underground injection" means the subsurface emplacement of fluids through a bored, drilled or driven well; or through a dug well, where the depth of the dug well is greater than the largest surface dimension. (See also "hazardous waste site or facility, injection well.")

(210) "Underground tank" see "hazardous waste management unit - hazardous waste tank - underground tank" or "solid waste site or facility - tank - underground tank".

(211) [(173)] "Unsaturated zone (zone of aeration)" means that region of the soil or rock between the land surface and the nearest saturated zone in which the interstices are occupied partially by air.

(212) "Unfit for use" see "hazardous waste management unit - hazardous waste tank - unfit for use" or "solid waste site or facility - tank - unfit for use".

(213) "Unit" see "solid waste site" or "facility - unit".

(214) [(174)] "Uppermost aquifer" means the geologic formation nearest the natural ground surface that is an aquifer, as well as lower aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary.

(215) [(175)] "Used or reused" see Section 1 of 401 KAR 31:010.

(216) [(176)] "Vapor recovery system" means that equipment, device, or apparatus capable of collecting vapors and gases discharged from a storage tank, and a vapor processing system capable of affecting such vapors and gases so as to prevent their emission into the atmosphere.

(217) [(177)] "Vessel" includes every description of watercraft used or capable of being used as a means of transportation on the water.

(218) [(178)] "Washout" means the carrying away of waste by waters of the base flood.

(219) [(179)] "Waste" means:

(a) "Solid waste" means any garbage, refuse, sludge and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining (excluding coal mining wastes, coal mining by-products, refuse and overburden) and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved material in irrigation return flows or industrial discharges which are point sources subject to permits under section 402 of the federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923) (KRS 224.005);

(b) "Hazardous waste" means any discarded material or material intended to be discarded or substance or combination of such substances intended to be discarded, in any form which because of its quantity, concentration or physical, chemical or infectious characteristics

may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed; nothing in this chapter shall be construed to apply to any activity or substance which is subject to the federal Atomic Energy Act of 1954, as amended (68 Stat. 923) except as provided in KRS 224.867.

(220) [(180)] "Waste boundary" means:

(a) The outermost perimeter of the waste (projected in the horizontal plane) as it would exist at completion of the disposal activity; or

(b) An alternative boundary for a solid waste disposal facility which may be used in lieu of paragraph (a) when the cabinet finds that such a change would not result in the contamination of groundwater which may be needed or used for human consumption. Such a finding shall be based on an analysis and consideration of all the factors identified in the following subparagraphs of this paragraph that are relevant:

1. The hydrogeological characteristics of the facility and surrounding land including any natural attenuation and dilution characteristics of the aquifer;

2. The volume and physical and chemical characteristics of the leachate;

3. The quantity, quality, and direction of flow of groundwater underlying the facility;

4. The proximity and withdrawal rates of groundwater users;

5. The availability of alternative drinking water supplies;

6. The existing quality of the groundwater, including other sources of contamination and their cumulative impacts on the groundwater; and

7. Public health, safety, and welfare effects.

(221) "Waste facility" means a hazardous waste site or facility or a solid waste site or facility.

(222) [(181)] "Waste management district" means any county or group of counties electing to form under the provisions of KRS 109.071 and operate in conformance with the provisions of KRS Chapter 109 and with Section 4006, Resource Conservation and Recovery Act of 1976, as amended (P.L. 94-580) (KRS 224.005).

(223) "Waste pile" see either "hazardous waste site or facility - pile" or "solid waste site or facility - pile".

(224) [(182)] "Wastewater treatment unit" see "hazardous waste site or facility - wastewater treatment unit" or "solid waste site or facility - wastewater treatment unit".

(225) [(183)] "Water (bulk shipment)" means the bulk transportation of hazardous waste which is loaded or carried on board a vessel without containers or labels.

(226) [(184)] "Water" or "waters of the Commonwealth" means and includes any and all rivers, streams, creeks, lakes, ponds, impounding reservoirs, springs, wells, marshes and all other bodies of surface or underground water, natural or artificial, situated wholly or partly within or bordering upon the Commonwealth or within its jurisdiction (KRS 224.005).

(227) [(185)] "Well" means any shaft or pit dug or bored into the earth, generally of cylindrical form, and often walled with bricks or tubing to prevent the earth from caving in.

(228) [(186)] "Wetlands" means land that has a predominance of hydric soils and is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions, where: [those areas that are inundated by surface water or groundwater with a frequency and duration sufficient to support a prevalence of vegetation or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands include swamps, marshes, bogs, and similar areas, such as sloughs, potholes, wet meadows, river overflows, mud flats, and natural ponds.]

(a) "Hydric soils" means soils that, in their undrained condition, are saturated, flooded, or ponded long enough during a growing season to develop an anaerobic condition that supports the growth and regeneration of hydrophytic vegetation.

(b) "Hydrophytic vegetation" means a plant growing either in water, or in a substrate that is at least periodically deficient of oxygen during a growing season as a result of excessive water content.

(229) [(187)] "Zone of engineering control" means an area under the control of the owner/operator that upon detection of a hazardous waste release, can be readily cleaned up prior to the release of hazardous waste or hazardous constituents to waters of the Commonwealth.

(230) [(188)] "Zone of incorporation" means the depth to which the soil on a landfarm is plowed, tilled, or otherwise designed to receive waste.

Section 2. Acronyms and Abbreviations. The acronyms and abbreviations used in 401 KAR Chapters 30 through 49 can be found in Table 1.

Table 1. Acronyms and Abbreviations

Am.	Amended
C	Corrosive waste
CAA	Clean Air Act
CFR	Code of Federal Regulations
cm	Centimeter
cm^2	Centimeter squared
CO	Carbon monoxide
CO_2	Carbon dioxide
CWA	Clean Water Act
DOT	United States Department of Transportation
DRE	Destruction and removal efficiency
E	Explosive waste
eff.	Effective
EPA	United States Environmental Protection Agency
EP Toxicity	Extraction procedure toxicity
FIA	Federal Insurance Administration
FR	Federal Register
H	Acutely hazardous waste
ha	Hectare
I	Ignitable waste
KAR	Kentucky Administrative Regulation
kg	Kilogram
KPDES	Kentucky Pollution Discharge Elimination System
KRS	Kentucky Revised Statute
Ky.R.	Administrative Register of Kentucky
l	Liter
LC	Lethal concentration

LD	Lethal dose
ml	Milliliter
mm	Millimeter
N	Normal
NESHAPS	National Emissions Standards for Hazardous Air Pollutants
NPDES	National Pollutant and Discharge Elimination System
PCB	Polychlorinated biphenyl
pCi/l	Picocuries per liter
PHC	Principal hazardous constituent
Permit POHC	Permitted principal organic hazardous constituent
POHC	Principal organic hazardous constituent
ppm	parts per million
Trial POHC	Trial burn principal organic hazardous constituent
POTW	Publicly owned treatment works
PSD	Prevention of significant deterioration
psi	Pounds per square inch
psig	Pounds per square inch gauge
R	Reactive waste
RCRA	Resource Conservation and Recovery Act, as amended (P.L. 94-580)
SDWA	Safe Drinking Water Act
SEC	Securities and Exchange Commission
SIC	Standard Industrial Classification Code
SPCC	Spill Prevention, Control, and Countermeasures Plan
T	Toxic waste
UIC	Underground Injection Control
UICP	Underground Injection Control Program
USC	United States Code
USEPA	United States Environmental Protection Agency
USPS	United States Postal Service

Section 3. References. Title 401 Chapters 30 through 49, incorporate certain publications by reference. The publications listed in 40 CFR Part 260.11 are adopted and filed herein by reference. Copies of these publications may be obtained as follows:

(1) "ASTM Standard Test Methods for Flash Point of Liquids by Setaflash Closed Tester," ASTM Standard D-3278-78, available from American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

(2) "Flammable and Combustible Liquids Code" (1977 or 1981), available from the National Fire Protection Association, Battery March Park, Quincy, Massachusetts 02269.

(3) "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846 (Second Edition, 1982 as amended by Update I (April 1984), and Update II (April 1985)). The second edition of SW-846 and Updates I and II are available from the National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22161, (703) 487-4600, as document no. PB87-120-291.

(4) Appendix X of 40 CFR 261 on the method of analysis for chlorinated dibenzo-p-dioxins and dibenzofurans is adopted by reference and included in "The Test Methods for Evaluating Solid Waste, Physical/Chemical Methods."

(5) Appendix I of 40 CFR 268 on Toxicity Characteristics Leaching Procedure (TCLP) a method used to determine whether a solvent waste or a dioxin containing waste requires treatment or when a treated waste meets the applicable treatment standards of Section 1 of 401 KAR 37:100.

(6) The paint filter liquid test is Method 9095 and is a part of EPA publication SW 846 incorporated by reference in subsection (3) of this section.

FRANK DICKERSON, Commissioner
CARL H. BRADLEY, Secretary
APPROVED BY AGENCY: January 9, 1990
FILED WITH LRC: January 15, 1990 at 9 a.m.

PUBLIC HEARING: A public hearing to receive comments on this proposed regulation will be conducted February 22, 1990, at 10 a.m. (EDT), in the first floor Auditorium of the New State Office Building, High and Clinton Streets, Frankfort, Kentucky. Persons interested in attending this public hearing shall notify in writing at least five (5) days prior to the hearing David W. Morgan, Division of Waste Management, Frankfort Office Park, 18 Reilly Road, Frankfort, Kentucky 40601. Persons wishing to submit written comments without attending the hearing may do so, if the written comments are received in the Frankfort office of the Department for Environmental Protection by 4:30 p.m. (EDT) on February 22, 1990.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Susan C. Bush, Director

(1) Type and number of entities affected: This regulation affects all persons, counties, or urban-county governments who manage hazardous or solid wastes.

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

1. First year: This regulation has no economic effect. It is for informational purposes only.

2. Continuing costs or savings: This regulation has no economic effect. It is for informational purposes only.

3. Additional factors increasing or decreasing costs (note any effects upon competition): This regulation has no economic effect. It is for informational purposes only.

(b) Reporting and paperwork requirements: There are no additional reporting or paperwork requirements.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: There are no direct or indirect costs or savings to the promulgating administrative body. The regulation contains definitions supplied for informational purposes only.

1. First year: There are no direct or indirect costs or savings to the promulgating administrative body. The regulation contains definitions supplied for informational purposes only.

2. Continuing costs or savings: There are no continuing costs or savings.

3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) The proposed amendments are identical to 40 CFR 260.10 as published in the December 10, 1987 Federal

Register (52 FR 46946-46965).

Alternative: 1. Less stringent: The cabinet could not be less stringent and maintain authorization to administer the hazardous waste program.

2. More stringent: The cabinet chose not to adopt more stringent standards than the federal because the federal requirements will adequately protect public health and the environment.

3. Present proposal: The present proposal adequately defines essential terms used in connection with the waste management regulations.

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

(a) Necessity of proposed regulation if in conflict: Not applicable.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.

(6) Any additional information or comments: There is no additional information or comments.

TIERING: Was tiering applied? Yes. The definitions are tiered by identifying waste management entites, compliance dates, etc. Definitions are used throughout the waste management regulations to tier the regulatory requirements according to the type of facility.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. The proposed amendments affect both hazardous and solid waste regulated entities as follows: The proposed amendment is identical to federal regulations 40 CFR 260.10 as amended by the December 10, 1987 Federal Register (52 FR 46946-46965).

A technical correction is proposed for Section 1(92). This change was suggested by the U.S. EPA during the HSWA Cluster I authorization process.

Some previously defined terms are being proposed for amendment to refer also to solid waste sites or facilities. The definitions are identical in effect to the changes in 40 CFR 258.2 promulgated on August 30, 1988 in Federal Register Volume 53, No. 168 33314-33422. These definitions include: active fault, active life, cell, inactive portion, major modification, emergency permit, permit-by-rule.

Some of the proposed definitions are taken from and are identical to the effective portion of 40 CFR Part 257. These terms include: airport, bird hazard.

Some of the proposed definitions are identical to the proposed federal changes to 40 CFR Parts 257 and 258 promulgated on August 30, 1988 in Federal Register Volume 53, No. 168 33314-33422. These definitions include: closed unit, commercial solid waste, construction/demolition waste, industrial waste, existing unit, lateral expansion.

Some of the proposed definitions are from the existing 40 CFR 270.2. These proposed definitions are identical except for the inclusion as appropriate to solid waste sites or facilities: application; federal, state and local approvals or permits necessary to begin physical construction.

Some terms which are used in the proposed solid waste regulations but not defined in federal regulations are proposed. These include: closure care; Karst terrain; proposed permit; granted permit-by-rule; research, development and demonstration permit; wetland; hydric soils; hydrophytic vegetation.

The regulation proposes numerous cross indexing of terms previously defined or proposed definitions which are defined in paragraphs or subparagraphs.

2. State compliance standards. The administrative regulation defines essential terms used in connection with the waste management regulation.

3. Minimum or uniform standards contained in the federal mandate. The proposed amendments affect both hazardous and solid waste regulated entities as follows: The federal regulation at 40 CFR 260.10 expands the definition of "landfill" and adds a category of "miscellaneous units" to ease the permit process for those facilities not covered by existing permitting standards.

A technical correction is proposed for Section 1(92). This change was suggested by the U.S. EPA during the HSWA Cluster I authorization process.

Some previously defined terms are being proposed for amendment to refer also to solid waste sites or facilities. The definitions are identical in effect to the changes in 40 CFR 258.2 promulgated on August 30, 1988 in Federal Register Volume 53, No. 168 33314-33422. These definitions include: active fault, active life, cell, inactive portion, major modification, emergency permit, permit-by-rule.

Some of the proposed definitions are taken from and are identical to the effective portion of 40 CFR Part 257. These terms include: airport, bird hazard.

Some of the proposed definitions are identical to the proposed federal changes to 40 CFR Parts 257 and 258 promulgated on August 30, 1988 in Federal Register Volume 53, No. 168 33314-33422. These definitions include: closed unit, commercial solid waste, construction/demolition waste, industrial waste, existing unit, lateral expansion.

Some of the proposed definitions are from the existing 40 CFR 270.2. These proposed definitions are identical except for the inclusion as appropriate to solid waste sites or facilities: application; federal, state and local approvals or permits necessary to begin physical construction.

Some terms which are used in the proposed solid waste regulations but not defined in federal regulations are proposed. These include: closure care; Karst terrain; proposed permit; granted permit-by-rule; research, development and demonstration permit; wetland; hydric soils; hydrophytic vegetation.

The regulation proposes numerous cross indexing of terms previously defined or proposed definitions which are defined in paragraphs or subparagraphs.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? Federal definitions were used whenever available.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The proposed regulation adopts federal language wherever available. Kentucky-specific definitions were developed for terms used in the proposed regulations but not defined in the federal regulations.

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

401 KAR 30:020. General provisions.

RELATES TO: KRS 224.033, 224.036, 224.830 through 224.889, 224.994
STATUTORY AUTHORITY: KRS Chapter 13A, 224.033
NECESSITY AND FUNCTION: KRS 224.033 and the waste management provisions of KRS Chapter 224 require the cabinet to adopt rules and regulations for the generation, treatment, storage, recycling and disposal of hazardous wastes and the disposal of solid wastes. This chapter establishes the general administrative procedures which are applicable 401 KAR Chapters 31 through 49. This regulation sets forth general provisions which apply to the waste management regulations with regard to applicability, scope, exceptions, variances, general prohibitions, compatibility, conflicting provisions, severability, availability and confidentiality of information.

Section 1. Applicability. The waste management regulations shall apply to the disposal of solid waste and the management of all liquid, semisolid, solid, or gaseous waste defined or identified as hazardous in KRS Chapter 224 or the appropriate regulations (401 KAR 30:010, 401 KAR Chapter 31) by all persons and state and federal agencies who engage in the generation, treatment, storage, or disposal of such wastes, including hazardous substances spilled into the environment, thereby meeting the criteria of hazardous waste.

(1) The waste management regulations apply to all waste disposal sites or facilities with the following exceptions:

(a) Domestic sewage and any mixture of domestic sewage and other wastes that pass through a sewer system to a publicly-owned treatment works for treatment. (Note: these exemptions do not apply to sludges generated by the treatment of domestic sewage.)

(b) Industrial wastewater discharges that are point source discharges subject to regulation under Section 402 of the Clean Water Act, as amended. (Note: these exemptions do not apply to sludges generated by the treatment of industrial wastewater.)

(c) Solid or dissolved materials in irrigation return flows.

(d) Source special nuclear or by-product material as defined by the Atomic Energy Act, as amended 42 U.S.C. 2011 et seq.

(e) Materials subjected to in situ mining techniques which are not removed from the ground as part of the extraction process.

(2) Any waste that is not excepted by subsection (1) of this section and that is identified or listed under 401 KAR Chapter 31 is subject to the waste management regulations pertaining to hazardous waste.

(3) Any waste which is not excepted by subsection (1) of this section or granted a variance under the conditions of 401 KAR 30:080, or Sections 8 and 9 of 401 KAR 31:010, and which is not subject to subsection (2) of this regulation is subject to the waste management regulations pertaining to solid waste except for:

(a) Agricultural wastes including manures and crop residues, returned to the soil as fertilizers or soil conditioners.

(b) Overburden resulting from mining operations intended for return to the mine site and coal mining wastes, refuse, overburden and coal mining by-products.

(c) The location and operation of septic tanks. These regulations do, however, apply to the disposal of septic tank pumpings.

(d) Disposal of waste by underground well injection subject to the regulations (40 CFR Part 146) for the Underground Injection Control Program (UICP) under the Safe Drinking Water Act, as amended, 42 U.S.C. 3007 [et seq].

Section 2. Variance. A variance, except as provided in 401 KAR Chapter 38, is a written waiver from any provision of the waste management regulations, upon the finding by the cabinet that the absence of such provision(s) shall [will] provide adequate protection to health and the environment in a manner consistent with the purpose of the waste management regulations and KRS Chapter 224. Variances may be granted for recycling operations in accordance with the standards contained in 401 KAR 30:080.

(1) The cabinet may grant a variance or permit modification from the requirements of the waste management regulations if a waste permit requirement, or the process and equipment used is determined by the cabinet to be either:

(a) Insignificant as a potential hazard to public health or the environment because of its small quantity; low concentration; physical, biological, or chemical characteristics; or method of operation used; or

(b) Handled, processed, or disposed of pursuant to regulations of another governmental agency, providing the regulations of other agencies meet the requirements of the waste management regulations, including federal exemption rule-making actions pertaining to hazardous waste management.

(2) A request for variance from a requirement of the waste management regulations shall be submitted in a report as prescribed by the cabinet in sufficient detail to describe clearly the analyses, procedures, controls, and other pertinent data necessary to support the request. The granting of such a request by the cabinet shall be in writing and shall specify appropriate conditions such as duration, limitations, and review procedures.

(3) The cabinet shall [will] not grant any request for a variance which:

(a) Would make the program less stringent than the federal hazardous waste management program; or

(b) Would be in conflict with Kentucky Revised Statutes; or

(c) Would be in conflict with a regulatory provision stating that no variance shall be granted; or

(d) Would vary the requirements of 401 KAR 47:030 [30:030]; or

(e) Would vary the financial responsibility requirements in a manner conflicting with Section 1 of 401 KAR 34:080 or Section 1 of 401 KAR 35:080.

Section 3. Compatibility with the Federal Acts. The regulations promulgated pursuant to the waste management provisions of KRS Chapter 224 are intended to be compatible with federal

regulations adopted pursuant to Public Law 94-580, the "Resource Conservation and Recovery Act of 1976," as amended.

Section 4. Conflicting Provisions. The provisions of the waste management regulations are to be construed as being compatible with and complimentary to each other. In the event that any of these regulations are found to be contradictory, the more stringent provisions shall apply.

Section 5. Severability. In the event that any provision of KRS Chapter 224 or any regulation promulgated pursuant thereto is found to be invalid, the remaining waste management regulations in 401 KAR Chapters 30 through 49 shall not be affected or diminished thereby.

Section 6. Use of Number and Gender. As used in 401 KAR Chapters 30 through 49:
(1) Words in masculine gender also include the feminine and neuter genders; and
(2) Words in the singular include the plural; and
(3) Words in the plural include the singular.

Section 7. Applicability of Regulations. (1) At the time of permit issuance, the applicable regulations shall be those waste management regulations which are in effect upon the date of permit issuance.
(2) For permit modifications, revocation and reissuance, or termination, the applicable regulations shall be those regulatory provisions which are in effect upon the date that the cabinet makes a final determination (i.e., approval of a permit modification) upon the permit action and are applicable to those specific permit conditions being modified or revoked and reissued. The procedures which shall be used for permit modifications, revocation and reissuance, or termination shall be those regulatory procedures which are in effect upon the date of the cabinet's final determination.

Section 8. Availability of Information; Confidentiality of Information. (1) Any information provided to the cabinet under 401 KAR Chapters 30 through 49 shall [will] be made available to the public to the extent and in the manner authorized by the Freedom of Information Act, 5 U.S.C. section 552, KRS 224.035 and 224.036 and Chapter 61 and EPA regulations implementing the Freedom of Information Act and 400 KAR 1:060 as applicable.
(2) Any person who submits information to the cabinet in accordance with 401 KAR Chapters 30 through 49 and 400 KAR 1:060 may assert a claim of business confidentiality or trade secret covering part or all of that information by following the procedures set forth in 400 KAR 1:060. Information covered by such a claim shall [will] be disclosed by the cabinet only to the extent, and by means of the procedures, set forth in 400 KAR 1:060 and KRS Chapter 61 except that information required by Section 4(1) of 401 KAR 32:050 which is submitted in notification of intent to export a hazardous waste shall [will] be provided to the U.S. Department of State and the appropriate authorities in a receiving country regardless of any claims of confidentiality. However, if no such claim accompanies the information when it is received by the cabinet, it may be made available to the public without further notice to the person submitting it.

Section 9. Compliance Deadlines. After promulgation of regulations under 401 KAR Chapter 31 identifying by its characteristics or listing any substance as hazardous waste subject to the hazardous waste management regulations, any person generating or transporting such substance or owning or operating a facility for treatment, storage, disposal or recycling of such substance shall register with the cabinet. Such registration shall be filed within ninety (90) days after promulgation or revision of the regulations unless another notification date is specified.

FRANK DICKERSON, Commissioner
CARL H. BRADLEY, Secretary
APPROVED BY AGENCY: January 9, 1990
FILED WITH LRC: January 15, 1990 at 9 a.m.
PUBLIC HEARING: A public hearing to receive comments on this proposed regulation will be conducted February 22, 1990 at 10 a.m. (EDT), in the first floor auditorium of the New State Office Building, High and Clinton Streets, Frankfort, Kentucky. Persons interested in attending this public hearing shall notify in writing at least five days prior to the hearing: David W. Morgan, Division of Waste Management, Frankfort Office Park, 18 Reilly Road, Frankfort, Kentucky 40601. Persons wishing to submit written comments without attending the hearing may do so, if the written comments are received in the Frankfort office of the Department for Environmental Protection by 4:30 p.m.(EDT) on February 22, 1990.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Susan C. Bush, Director
(1) Type and number of entities affected: This proposed regulation affects all persons or agencies involved in the generation, treatment, storage, or disposal of waste.
(a) Direct and indirect costs or savings to those affected:
1. First year: There is no direct or indirect effect.
2. Continuing costs or savings: There are no continuing costs or savings.
3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors increasing or decreasing cost.
(b) Reporting and paperwork requirements: There are no additional reporting or paperwork requirements.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: There is no direct or indirect costs or savings.
2. Continuing costs or savings: There are no continuing costs or savings.
3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.
(b) Reporting and paperwork requirements: There are no reporting or paperwork requirements.
(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.
(4) Assessment of alternative methods; reasons

why alternatives were rejected: (a) Alternative: 1. Less stringent: The cabinet could not be less stringent and adequately protect human health and the environment.

2. More stringent: More stringent regulations were not needed.

3. Present proposal: The present proposal changes a regulatory reference to reflect the environmental performance standards for solid waste sites and facilities being moved to a new number.

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

(a) Necessity of proposed regulation if in conflict: There is no conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no conflict.

(6) Any additional information or comments: There is no additional information or comments.

TIERING: Was tiering applied? Yes. This proposed regulation applies only to individuals who generate, treat, store, or dispose of waste.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. There is no federal mandate.

2. State compliance standards. This proposed regulation changes one regulatory citation to conform to the new regulation for environmental performance standards which replaces 401 KAR 30:030.

3. Minimum or uniform standards contained in the federal mandate. There is no federal mandate.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The proposed regulation does not impose stricter or additional responsibilities or requirements.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The proposed regulation does not impose stricter or additional responsibilities or requirements.

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

401 KAR 47:070. Operator certification.

RELATES TO: KRS 224.005 through 224.110, 224.830 through 224.888, 224.994 [224.842, 224.844]

STATUTORY AUTHORITY: KRS [224.017,] 224.033, 224.844 [(24)]

NECESSITY AND FUNCTION: KRS Chapter 224 requires the cabinet to adopt rules and regulations for the management, processing or disposal of wastes. KRS 224.844 requires the cabinet to promulgate regulations that establish standards and a certification program for operators of waste [disposal] sites or facilities. This chapter establishes the permitting standards for solid waste sites or facilities, the standards applicable to all solid waste sites or facilities, and the standards for certification of operators. An overview of the permit program is found in Section 1 of 401 KAR 47:080. [This chapter establishes standards for solid waste sites or facilities.] This regulation establishes the program for education, testing, and certification of facility operators of solid waste sites or facilities [sanitary landfills and landfarming facilities].

Section 1. Definitions. The following are definitions as used in this regulation:

(1) "Category of solid waste site or facility" means inert, residual, construction demolition debris, residential or contained landfill and includes landfarming facilities receiving Class I, II and III sludges or wastes.

(2) "Certificate" means a written document issued by the cabinet stating that the operator has met all requirements for certification.

(3) "Certified operator" means a solid waste site or facility operator who holds a valid certificate. The following are categories of certified operators:

(a) "Landfarming operator" means a certified operator who is the individual responsible for ensuring compliance with all permit conditions at a landfarming facility in accordance with 401 KAR 48:200, and who is reasonably available to the site;

(b) "Landfill operator" means a certified operator who is the individual responsible for the daily operating requirements identified in 401 KAR 47:120, 48.060, 48:090, or 48:170;

(c) "Landfill manager" means a certified operator who is the individual with primary responsibility for management and operation of the residential or contained or construction/demolition debris sanitary landfill to assure compliance with all permit conditions including direct responsibility for providing guidance to the landfill operator, or the permittee and the authority to commit financial resources allocated for proper operation; or

(d) "Interim operator" means the individual identified by the permittee as the replacement landfarming operator, landfill operator, or landfill manager in accordance with Section 12 of this regulation.

[Section 1. Applicability. (1) The requirements in this regulation apply to all solid waste sites or facilities except as subsection (2) of this section provides otherwise. Each solid waste site or facility shall have at least one (1) operator certified in accordance with Section 3 (sanitary landfills) or Section 4 (landfarming facilities) of this regulation, as appropriate to the category of solid waste site or facility.]

[(2) Inert or residual landfills are excluded from the requirements of this regulation, unless the cabinet requires operator certification as a condition of the permit. In deciding whether to require operator certification at an inert or residual landfill, the cabinet may consider:]

[(a) The characteristics of the waste stream;]

[(b) The characteristics of the site, including geology and hydrology; and]

[(c) The experience and qualifications of the operator.]

[(3) It shall be the responsibility of the permittee to ensure that the solid waste site or facility complies with the requirements of this

regulation.]

Section 2. Applicability. (1) The requirements in this regulation apply to all solid waste sites or facilities except as subsection (2) of this section provides otherwise. Each solid waste site or facility shall have at least one (1) operator certified in accordance with Section 3 (sanitary landfills) or Section 4 (landfarming facilities) of this regulation, as appropriate to the category of solid waste site or facility.

(2) Residual landfills and facilities operating under a granted permit-by-rule or a permit-by-rule are excluded from the requirements of this regulation, unless the cabinet requires operator certification as a condition of the permit. In deciding whether to require operator certification at a residual landfill, a site or facility with a granted permit-by-rule or a permit-by-rule, the cabinet may consider:

(a) The characteristics of the waste stream;

(b) The characteristics of the site, including geology and hydrology; and

(c) The experience and qualifications of the operator.

(3) It shall be the responsibility of the permittee to ensure that the solid waste site or facility complies with the requirements of this regulation.

[Section 2. Definitions. The following are definitions as used in this regulation:]

[(1) "Category of solid waste site or facility" means inert, residual, residential or contained landfill and includes landfarming facilities.]

[(2) "Certificate" means a written document issued by the cabinet stating that the operator has met all requirements for certification.]

[(3) "Certified operator" means a solid waste site or facility operator who holds a valid certificate. The following are categories of certified operators:]

[(a) "Landfarming operator" means a certified operator who is the individual responsible for ensuring compliance with all permit conditions at a landfarming facility in accordance with 401 KAR 47:050 (landfarming), and who is reasonably available to the site.]

[(b) "Landfill operator" means a certified operator who is the individual responsible for the daily operating requirements identified in 401 KAR 47:040 (sanitary landfills).]

[(c) "Landfill manager" means a certified operator who is the individual with primary responsibility for management and operation of the sanitary landfill to assure compliance with all permit conditions including direct responsibility for providing guidance to the landfill operator and/or the permittee and the authority to commit financial resources allocated for proper operation.]

[(d) "Interim operator" means the individual identified by the permittee as the replacement landfarming operator, landfill operator, or landfill manager in accordance with Section 12 of this regulation.]

Section 3. General Provisions for Landfills. (1) Each construction/demolition debris, residential and contained landfill shall have a certified operator(s) who is a landfill operator and a landfill manager. The requirements of this subsection may be fulfilled by:

(a) One (1) individual who has been certified in accordance with Section 6 of this regulation for [is certified in] both categories of certified operator (provided this individual meets the qualifications in Sections 1 [2](3) and 11 of this regulation [for both categories of operator]); or

(b) Two (2) individuals who have been certified in accordance with Section 6 of this regulation [are certified] in each category of operator such that one (1) individual is certified as a landfill operator and one (1) individual is certified as a landfill manager.

(2) As provided in Section 2 [1] of this regulation, the cabinet may require as a permit condition that a[n inert or] residual landfill or a site or facility with a permit-by-rule or granted permit-by-rule shall have a certified operator who is a landfill operator or a landfill manager or both a landfill operator and a landfill manager. The permit condition imposed shall reference all applicable operating regulations and requirements for the specific category of sanitary landfill.

(3) In the event the certified operator who is the landfill operator is not physically at the facility during operating hours, either the landfill manager or an interim operator shall be designated responsible for daily site operation and shall be physically located on-site. If an interim operator assumes responsibility for daily operation of the landfill, the requirements in Section 12 of this regulation shall be met.

(4) In carrying out its responsibilities, the cabinet shall [will] examine the qualifications of applicants for certification and maintain records of certification and a register of certified operators.

(5)(a) Except as provided in Section 2 [1] of this regulation, no landfill shall continue operation in the absence of a landfill operator on-site for more than ten (10) consecutive operating days without appointment of a qualified interim operator in accordance with Section 12 of this regulation or written approval from the cabinet.

(b) Except as provided in Section 2 [1] of this regulation, no landfill shall continue operation in the absence of a landfill manager for a period longer than thirty (30) consecutive days without appointment of a qualified interim operator in accordance with Section 12 of this regulation or written approval from the cabinet.

Section 4. General Provisions for Landfarming Facilities. (1) Each landfarming facility shall have a landfarming operator certified in accordance with Section 6 of this regulation.

(2) No landfarming facility shall continue operation in the absence of a landfarming operator for a period longer than five (5) consecutive working days without appointment of a qualified interim operator in accordance with Section 12 of this regulation or written approval from the cabinet.

Section 5. Application for Certification. (1) An individual desiring to be certified shall file an application on a form provided by the cabinet at least thirty (30) days before beginning training for a scheduled examination.

(2) The applicant shall submit all information needed to determine eligibility of the applicant

for examination and certification.
(3) The cabinet shall review applications and supporting documents, determine the eligibility of the applicant for examination and notify the applicant of the determination.
(4) No person shall be eligible for examination for certification unless that person completes the appropriate training class or classes provided by the cabinet, unless an alternative training program is accepted by the cabinet in accordance with Section 7(6) of this regulation.

Section 6. Training Classes and Examinations. (1) The cabinet will provide training classes for the certified operator.
(2) Training sessions will be held at least annually at places and times set by the cabinet. The last day of each training session will be set aside for the purpose of examinations to determine the knowledge and ability of the applicant.
(3) Certification shall be conditioned on successful passage of a written examination, unless an alternative examination process is accepted by the cabinet.
(4) Separate examinations will be prepared to cover basic differences in the duties and responsibilities for the operation of each category of solid waste site or facility and each category of certified operator.
(5) Applicants who fail to pass an examination may reapply for the examination at a regularly scheduled examination or by appointment with the cabinet. The cabinet shall require the applicant to attend the training session again if the applicant fails to pass the examination in three (3) attempts.
(6) In the event an applicant fails to meet the requirements for certification, he may petition the cabinet for a one (1) time only "temporary hardship certification." The cabinet will then conduct an informal hearing at which evidence shall be presented by the applicant to support his hardship request. Each temporary hardship certification request shall be considered on a case-by-case basis under the following guidelines:
(a) Failure of the applicant to receive certification would leave a significant area of the state without adequate waste disposal service.
(b) The applicant has shown a good faith effort by attending all required training sessions and met all requirements except the applicant has failed in three (3) attempts to pass the examination.
(c) The applicant has shown, through cabinet inspections, a capability for satisfactory operation of the solid waste site or facility.

Section 7. Training Course Requirements. (1) All applicants for certification shall be required to attend a training course provided by the cabinet in accordance with KRS 224.844.
(2) The training course provided by the cabinet shall be designed to provide information as appropriate to the category of certified operator. At a minimum, the training course shall provide information which enables the certified operator to perform his duties in a knowledgeable and competent manner.
(3) Landfill managers shall be trained on:
(a) The requirements for permit application for the applicable category of sanitary landfill including ownership, zoning, chapter 109 district boards, geologic and hydrologic information and specific design details;
(b) Characteristics of the waste stream; the physical, chemical and biological reactions including the hydrogeologic interactions of a landfill; and measures that must be employed to meet the environmental performance standards in [of] 401 KAR 47:030 [Chapter 30] and all other regulatory requirements; and
(c) Specific duties expected to be performed by individuals who are wholly responsible for the requirements associated with the operation of the applicable category of sanitary landfill permitted by the cabinet. These actions include at a minimum, the commitment of resources, oversight of operating personnel, and verification that site operation is in accordance with all provisions of the permit [application] including technical documents.
(4) Landfill operators shall be trained on the requirements contained in the solid waste regulations as they apply to daily site operation duties. These duties include judging indicators regarding a site's ability to receive wastes; judging waste characteristics for disposal acceptability; employing site equipment to maintain waste compaction, cover, and surface water management on a daily basis; maintaining equipment; maintaining site safety; and generally assuring compliance with the regulations.
(5) Landfarming operators shall be trained on the Kentucky waste management program as it applies to landfarming; wastewater treatment processes; the nature and characteristics of sludges; the physical and chemical properties of sludges; landfarming design and management; environmental considerations; and the Kentucky waste management permit process. The permit process includes requirements for application, conditions for maintaining a permit in compliance with the application and regulations, and amendments to the landfarming activity and associated permit.
(6) The cabinet shall provide the training course to applicants for certification. However, the cabinet may consider alternate training courses provided they are equivalent to the content prescribed by the cabinet's training course. It shall be the applicant's responsibility to submit such documentation as the cabinet requires for an equivalency judgment of the alternate training course. This information shall contain at a minimum the following specifics: the course name; sponsoring agency; the date, location and the beginning and ending times of the course; a summary of the course content of sufficient detail to determine relevance and quality of the course; and a copy of the certificate received.

Section 8. Issuance of Certificates. (1) Upon passage of the examination the cabinet will issue a certificate to the applicant which will indicate the category of solid waste site or facility and the category of certified operator for which the operator is certified.
(2) Certified operators shall be recertified every five (5) years.
(3) Certificates will be issued to holders of certificates of another state if the training requirements of the issuing state are deemed comparable as specified in Section 7(6) of this regulation and if the operator passes the

cabinet's examination.

(4) The certificates of operators who terminate their employment at a solid waste site or facility will remain valid until expiration or revocation of the certificate.

(5) Certificates shall be carried on the person of each certified operator during working hours at the facility or prominently displayed on-site.

Section 9. Compliance Dates. [(1) The regulatory requirement to have one (1) certified operator at each residential or contained landfill (and inert or residual landfills with the permit condition to have a certified operator) became effective on February 1, 1982. In accordance with the regulation 401 KAR 2:111 (recodified to 401 KAR 47:070 on March 1, 1983) which became effective on February 1, 1982, each residential and contained landfill in existence on that date was required to have one (1) certified operator by February 3, 1983.]

[(2) By January 1, 1988, each residential landfill and contained landfill shall have a certified landfill operator and a landfill manager or one (1) individual who is certified as both a landfill operator and landfill manager.]

[(3) By December 31, 1988, each landfarming facility shall have a certified landfarming operator.]

(1) [(4)] An operator who is not an appropriately certified operator and who assumes the responsibility of a certified operator shall[:

(a)] immediately comply with the requirements in Section 12 of this regulation; and

(2) [(b)] Comply with the requirements in Section 6 of this regulation within fifteen (15) months of assuming the responsibility.

Section 10. Revocation of Certificate. (1) The cabinet may revoke the certificate of an operator, following a cabinet hearing, when it determines that the operator has practiced fraud or deception, or that the operator has failed to perform an operator's duties including, but not limited to, failure to comply with permit conditions.

(2) The cabinet may revoke a certificate whenever the holder fails to use reasonable care and judgment in the performance of an operator's duties. No certificate shall be valid if obtained through fraud, deceit, or the submission of inaccurate data on qualifications.

(3) Individuals who have had their certificate revoked by the cabinet shall be ineligible for future recertification.

Section 11. Operator Qualifications: Education and Equivalencies. (1) All applicants shall be evaluated by the cabinet as to education, and experience as related to the appropriate category of solid waste site or facility.

(2)(a) Applicants for landfill operator shall have completed high school (by graduation or by obtaining an equivalency certificate) and shall have a minimum of one (1) year of experience at a landfill similar to the category of landfill for which certification is sought.

(b) If an applicant for landfill operator does not meet the requirements of paragraph (a) of this subsection, the cabinet may consider the number of years of experience in operating a landfill or experience in a related field (i.e., heavy equipment operator, road construction, surface mining, etc.) in determining eligibility for examination on a year-for-year basis.

(3)(a) Applicants for landfill manager shall have completed high school (by graduation or by obtaining an equivalency certificate) and shall have:

1. A minimum of two (2) years administrative experience in a related field (i.e., waste management, wastewater treatment, etc.); or

2. A minimum of two (2) years of postsecondary education; or

3. A minimum of two (2) years of a combination of experience in a related field and postsecondary education.

(b) If an applicant for landfill manager does not meet the requirements of paragraph (a) of this subsection, the cabinet may consider the qualifications of the applicant on a case-by-case basis.

(4)(a) Applicants for landfarming operator shall have completed high school (by graduation or by obtaining an equivalency certificate) and shall have a minimum of one (1) year of experience at a landfarming facility.

(b) If an applicant for landfarming operator does not meet the requirements of paragraph (a) of this subsection, the cabinet may consider the number of years of experience in operating a landfarming facility or experience in a related field (i.e., waste water treatment, water treatment, etc.) in determining eligibility for examination on a year for year basis.

[(5) Any applicant for recertification who holds a valid certificate shall not be required to resubmit information concerning qualifications. The qualifications of an existing certified operator shall not be considered in determining the applicant's eligibility for recertification for a specific category of certified operator provided, however, the applicant meets the criteria specified in Section 2(3) of this regulation for the specific category of certified operator.]

Section 12. Interim Operators. (1) In accordance with the requirements in subsection (2) of this section, the permittee shall notify the cabinet in writing of the extended absence of a certified operator ten (10) days prior to an anticipated absence and immediately upon discovery of an extended absence due to an emergency or unanticipated circumstances. The notice from the permittee shall provide the cabinet with the following information:

(a) Name and qualifications of the individual intended to replace the certified operator; and

(b) The length of time for which the permittee seeks to have the interim operator fulfill the obligations of the certified operator.

(2) The permittee shall notify the cabinet of the extended absence when the operator or manager shall be absent for [An "extended absence" shall mean]:

(a) More than ten (10) consecutive operating days for a landfill operator;

(b) More than thirty (30) consecutive operating days for a landfill manager; and

(c) More than five (5) consecutive operating days for a landfarming operator.

(3) Consecutive operating days as used in subsection (2) of this section shall be determined as [mean] any days [when]:

(a) When the solid waste site or facility accepts waste, operates equipment or otherwise

performs the business of solid waste management; and

(b) Which days occur in sequence regardless of whether nonoperating days such as weekends or holidays fall in between.

(4) The cabinet shall evaluate the qualifications of the designated interim operator and shall notify the permittee of the cabinet's determination in writing within thirty (30) days of receipt of the permittee's notice. The determination shall:

(a) Approve or deny the permittee's request for designation of the interim operator;

(b) Identify the length of time the interim operator may operate the solid waste site or facility; and

(c) Specify conditions as appropriate to the site and the interim operator's qualifications.

Section 13. Permit Condition. As specified in Section 2 [1] of this regulation, every solid waste site or facility requiring a permit shall be operated by the operator(s) certified pursuant to this regulation. Pursuant to Sections 2 [1] and 3 of this regulation, maintaining the certified operator(s) shall be considered a permit condition, and the permit may be revoked, or penalties for permit violations sought as appropriate, upon violation of the requirements and duties established by this regulation.

Section 14. Fees. (1) Fees for application for certification shall be:

(a) $125 [Fifty (50) dollars] for application for certification as a landfill operator;

(b) $125 [Fifty (50) dollars] for application for certification as a landfill manager;

(c) $150 [Seventy-five (75) dollars] for application for certification as both a landfill operator and a landfill manager when the application is made for certification for both categories at the same training session; [and]

(d) $125 [Fifty (50) dollars] for application for certification as a landfarming operator; and

(e) Fifty (50) dollars for certification by reciprocity for all categories of operator.

(2) Fees shall accompany applications and will not be returned to those who do not qualify for a certificate.

FRANK DICKERSON, Commissioner
CARL H. BRADLEY, Secretary

APPROVED BY AGENCY: January 9, 1990

FILED WITH LRC: January 15, 1990 at 9 a.m.

PUBLIC HEARING: A public hearing to receive comments on this proposed regulation will be conducted February 22, 1990 at 10 a.m. (EDT), in the first floor auditorium of the New State Office Building, High and Clinton Streets, Frankfort, Kentucky. Persons interested in attending this public hearing shall notify in writing at least five days prior to the hearing: David W. Morgan, Division of Waste Management, Frankfort Office Park, 18 Reilly Road, Frankfort, Kentucky 40601. Persons wishing to submit written comments without attending the hearing may do so, if the written comments are received in the Frankfort office of the Department for Environmental Protection by 4:30 p.m.(EDT) on February 22, 1990.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Susan C. Bush, Director

(1) Type and number of entities affected: This amendment is being proposed to require a certified operator and manager for construction/demolition sanitary landfills and a certified operator for all landfarming facilities which accept Class I, II and III sludges. The construction/demolition landfill is a new category of landfill. Under the new proposed regulations, residential landfills will have the option of converting to a residual landfill, construction/demolition landfill, a contained landfill or to close. There are currently 85 residential landfills. It is not anticipated that all of these sites will transition to another category of landfill. For those than transition to construction/demolition, there will not be any impact as residential landfills are already required to have a certified operator and manager. Those sites converting to a contained landfill will have to have an operator and manager with a contained certification. Residential landfills are not required to have a certified operator unless specified as a permit condition. It is anticipated that 20-30 residential landfills will be able to upgrade to contained status.

The incorporation of the 3 classes of sludges or wastes for landfarming will not impact the number of operators required as all 51 permitted landfarming facilities are currently required to have a certified operator. The new solid waste permitting regulations will eliminate the landfarming permit-by-rule category and these sites (12 sites) will have to apply for a full permit and employ a certified operator.

The fee increases will affect all solid waste facilities which are required to have a certified operator/manager (contained, residential, construction/demolition, landfarming). This fee will be incurred over the next 5 years as the individual certifications come up for renewal. The fee added for reciprocity of another state's certificate will apply only to those requesting this consideration.

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

1. First year: Direct costs to each landfill/landfarming operator will be $255 including the certification and per diem. Indirect costs for time away from their job are estimated at $100 based on a $13,000 annual salary. Direct costs to each landfill manager will be $340 including certification fee and per diem. Indirect costs for time away from their job are $400 based on a $25,000 annual salary. These figures represent the cost for 2 certified individuals at each of the 85 permitted facilities. However, where one individual qualifies for the landfill operator and manager certifications, the direct cost will be $365 which includes per diem and a certification fee of $150 for both categories. Based on a 5-year certification, most landfill operators/managers will not incur this cost until 1992. For most landfarming operators, this cost will not be incurred until 1993.

The direct costs for operators/managers requesting reciprocity of another state's certificate will be $50 and includes the testing, certification and a training manual for

the appropriate category of operator.

2. Continuing costs or savings: Certification is valid for 5 years; thus, the costs will be incurred every fifth year. The construction and operation of a sanitary landfill is a complex engineered operation that is capital intensive. Mismanagement of such an operation can ultimately lead to health hazards and environmental damage resulting in costly remedial activities. Through formal training and certification of both landfill operators and managers, a significant reduction in environmental problems resulting in costly clean-up activities is realized. When proper operating procedures are employed, the life of a landfill will be maximized for an additional savings. With the number of landfarming operations on the increase (51 are currently permitted), it is equally important for this operator to receive formal training on proper operating procedures to enhance protection of the environment and save the cost of expensive remedial action.

3. Additional factors increasing or decreasing costs (note any effects upon competition): One reason for the requested fee increase relates directly to the cost of producing the training manuals. The cost for producing this manual is $25 which accounts for the binder, printing, regulations and postage to the recipient. This manual is revised yearly to account for regulatory changes and industry innovations which prohibit mass production of this document. This price does not reflect staff time for writing or assembling these manuals. Another reason for the increase in fees is the expansion of the class from 3 to 4 days of instruction for landfill operators/managers. This is necessary due to the new regulatory requirements and the complexity of the subject.

(b) Reporting and paperwork requirements: Completion of a simple application detailing the applicant's qualifications is required prior to attending the training for certification. Operators applying for reciprocity will have to complete the application for certification as well as provide information, as outlined in the regulations, on the course content he wishes to have considered.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The direct cost to the promulgating agency is estimated at $5,130 for each landfill operator/manager training session. This includes facility rental, transportation for participants to an on-site demonstration, printing charges, and salaries for instructors and program coordinator. Based on the number of operators eligible for recertification (53) in 1990, and accounting for new operators and managers entering the system (interested in information on the new regulations - approximately 23), it is estimated that 76 people will require certification during the first year. Two training sessions will be necessary to adequately implement the 1990 program and accommodate the operators with centrally located sessions. This will bring the total implementation cost to $10,260 or $135 per trainee. The direct cost for each landfarming training session is estimated at $3,810. The division anticipates the need for only one session in 1990 for 30 participants, resulting in a cost of $127 per trainee. Costs for training the 3 categories of operator are based on implementation and do not include salaries and costs incurred in development of the training program and materials. The cost of implementing the training sessions will be offset by the fees charged to applicants. Thus, the actual cost to the promulgating agency will be minimal.

2. Continuing costs or savings: Based on past program experience, at least 2 training sessions will be held annually for landfill certification and 1 training session for landfarming certification. The training and certification of operators will result in a savings to the cabinet due to increased compliance with operational standards resulting in a decrease of staff time for monitoring and enforcement activities.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: The division will provide written confirmation of receipt of an application for certification and scheduling of a trainee for a specific school date. Once the trainee attends the school and tests for certification, he will be notified in writing of his score. Computer and hard copy files are maintained on all trainees.

(3) Assessment of anticipated effect on state and local revenues: There are fee increases associated with this new regulation. However, they will not increase state revenues because: (a) they are being requested to offset existing costs to conduct the required training and certification program; and (b) the fees received go into a program account and not the general fund. There should not be any increase in local government revenues from promulgation of this revised regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Less stringent: KRS 224.844 specifies that the cabinet will promulgate regulations to require operator training, testing, certification and payment of a fee to defer the cost of the schools; therefore, less stringent requirements were not considered.

More stringent: There are no new requirements associated with this proposed regulation; therefore, more stringent alternatives were not considered.

Present proposal: This regulatory change is to identify the new categories of landfills and landfarming facilities requiring certified operators. This amendment is in response to changes in the solid waste permitting regulations. This regulation already allowed for certificate reciprocity but did not outline the specific information needed to make this decision. To prevent confusion, this regulation specifies the information required.

(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 conflicting, overlapping or duplicative.

(a) Necessity of proposed regulation if in conflict: There is no conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no conflict.

(6) Any additional information or comments: This amendment is also being proposed to clarify

the regulation by deleting passed compliance dates and specifying the course information needed for reciprocity.

TIERING: Was tiering applied? Yes. This regulation already requires certification of 3 categories of solid waste site or facility operators and bases applicant qualifications and certification requirements on the level of skill required in each category.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. The proposed administrative regulation is not required by federal mandate. The proposed regulation constitutes an amendment to 401 KAR 47:070.

2. State compliance standards. Authority for the proposed amendment to 401 KAR 47:070 comes directly from KRS 224.844. This amendment is in response to regulatory changes presently being proposed for the design and operation of sanitary landfills.

3. Minimum or uniform standards contained in the federal mandate. There is no federal mandate to certify operators of solid waste sites or facilities.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The proposed administrative regulation is not required by federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The proposed administrative regulation is not required by federal mandate.

NATURAL RESOURCES & ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management
(Proposed Amendment)

401 KAR 49:010. General planning and management provisions for solid waste.

RELATES TO: KRS 61.874, 109.011, 109.041, 109.115 [109.071], 109.190, 224.005, 224.835, 224.842, 224.887, 224.888

STATUTORY AUTHORITY: KRS Chapter 13A, 224.033, 224.868, 224.886, 224.887

NECESSITY AND FUNCTION: KRS 224.033(24), 224.886, and 224.887 require the Natural Resources and Environmental Protection Cabinet to adopt regulations for counties, combinations of counties, cities, and waste management districts to create [in creating] solid waste management areas for the purpose of planning for solid waste management and recovery activities. This chapter establishes the requirements for solid waste planning. This regulation defines essential terms and sets forth general provisions which apply to all counties, urban county governments, combinations of counties, cities and waste management districts seeking designation as solid waste management areas. This regulation neither prohibits nor discourages the participation of the private sector in any solid waste activity. Moreover, it is preferable for solid waste activities to be performed by the private sector when such is in the best interest[s] of the public and conforms with the policies and provisions set forth in KRS Chapter 109.

Section 1. (1) Applicability. [(1)] The solid waste management planning regulations shall apply to all counties, combinations of counties, cities, urban-county governments and waste management districts.

[(2)] Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, no county, city or waste management district shall regulate special wastes as defined in KRS 224.868 or solid waste from agricultural or mining operations as provided in KRS 109.041(4).

(2) [Section 2.] Definitions. Unless otherwise defined in this section, the definitions in 401 KAR 30:010 shall apply. Whenever the following terms appear in this chapter, unless context requires otherwise, they shall have the meanings given in this section.

(a) [(1)] "Action of the fiscal court" means any action or deed, including but not limited to a resolution or ordinance, which legally binds a county or, in the case of an urban-county government, the body in which legislative power is vested.

(b) [(2)] "Agreement" means a legally binding document or contract evidenced by a writing which establishes a waste management district or a proposed solid waste management area. The agreement may be between a single county, or two (2) or more counties and an agency or office which has been assigned responsibility for area plan development by a fiscal court.

[(3) "Area solid waste management plan" or "area plan" means the plan required by KRS 224.888 which sets forth a comprehensive program of solid waste management developed for implementation at the local government level.]

(c) [(4)] "Collection" means the gathering of solid waste at or near the source of generation. Sources of generation include, but are not limited to, residences, commercial establishments, institutions, and industrial plants.

(d) [(5)] "Designation as a solid waste management area" or "designation" means the approval from the cabinet of the application for designation as a solid waste management area as specified in 401 KAR 49:060 [030].

(e) [(6)] "Implementation" means the actual performance of planned activities according to time schedules in the approved area plan.

(f) [(7)] "Kentucky Waste Management Plan" means the comprehensive, statewide solid waste management plan [approved by the U.S. Environmental Protection Agency].

(g) "Medical waste" means any solid waste generated from health care facilities, including, but not limited to, hospitals, clinics, laboratories, and physicians', dentists' and veterinarians' offices.

(h) [(8)] "Planning period" means the interval of time designated for the accomplishment of [area] solid waste management area planning goals:

1. [(a)] "Short-term" means the planning period from the first through the fifth year after the most recent plan revision.

2. [(b)] "Midterm" means the planning period from the sixth through the tenth year after the most recent plan revision.

3. [(c)] "Long-term" means the planning period from the 11the through the 20the year after the most recent plan revision.

(i) [(9)] "Processing" means any solid waste material recovery, energy recovery, incineration, pulping, shredding, baling, compacting, any other method or technique to alter the physical or chemical composition of the solid waste, or any combination thereof.

(j) [(10)] "Regional" means of or pertaining to more than one (1) county.

(k) [(11)] "Resource conservation" means reduction of the amount of solid waste that is generated, reduction of overall resource consumption, or utilization of recovered resources.

(l) [(12)] "Solid waste activity" means any manner of solid waste management including collection, source separation, storage, transportation, transfer, processing, treatment and disposal.

(m) [(13)] "Source separation" means sorting solid waste for material recovery.

[(14) "Substantial revision" means a revision to an application for area designation which will significantly affect the plan, including but not limited to changes to local laws and regulations; delays in implementation; reordering or other changes to established, approved priorities; changes to the acquisition schedule for solid waste management activities or facilities; or changes in budgeting that will delay or prohibit implementation of the area plan.]

(n) [(15)] "Transfer" means the placement of solid waste from smaller collection vehicles into larger vehicles for transportation to other intermediate or final disposal facilities.

[(16) "Transportation" means the conveyance of solid waste by any mode.]

[Section 3. Notification of Intent to Apply for Area Designation. (1) Identification of lead agency. After a county decides to join with another county or counties or to assume joint responsibility with a city, or to independently submit an area plan, the fiscal court(s), board of directors or, in the case of an urban-county government, the body in which legislative power is vested, or such other office or agency responsible for area plan submittal shall notify the cabinet in writing by January 1, 1985, of the intent to apply for area designation. One (1) or more cities may be delegated the responsibility for developing an area solid waste management plan or providing solid waste management services where both the city and county agree to such delegation. Regardless of any such delegation, the county shall retain primary responsibility for solid waste management. Upon receipt of a Notification of Intent to Apply, the cabinet will transmit copies of the notification to all counties in Kentucky contiguous to the proposed solid waste management area. The notification shall state:]

[(a) Whether the applicant is acting independently, jointly or as a waste management district;]

[(b) The agency which will have primary responsibility for plan development; and]

[(c) The name and title of a designated contact person.]

[(2) Changes to information submitted. A county, city, or waste management district shall notify the cabinet within thirty (30) days of deciding to enter into a new agreement or amend, modify, or dissolve an existing agreement. The cabinet shall transmit copies of the notification to all counties in Kentucky contiguous to the proposed solid waste management area.]

[Section 4. Establishment of Waste Management Districts. (1) Garbage and refuse districts. Garbage and refuse districts established pursuant to KRS Chapter 109 prior to June 17, 1978 shall be deemed waste management districts by the cabinet pursuant to KRS 109.190. Garbage and refuse districts which elect to be considered waste management districts shall petition the cabinet by submitting the information required in Section 3 of this regulation. Upon approval of the petition by the cabinet, the name of the garbage and refuse district will be changed to reflect the new status as a waste management district. An existing garbage and refuse district may dissolve the district to apply for designation as a solid waste management area independently or in conjunction with any county.]

Section 2. [(2)] Formation of waste management districts. A single county, urban county government or two (2) or more counties which elect to become a waste management district under KRS 109.115 [109.071] shall notify the cabinet. [In addition to the notification required by Section 3 of this regulation,] The waste management district shall submit:

(1) [(a)] The agreement which establishes the district;

(2) [(b)] The rules, regulations, bylaws or other documents which govern the actions of the board of directors; and

(3) The name of the contact person and their mailing address;

(4) [(c)] A list of the members of the board of directors and their official titles. The cabinet will confirm receipt of the notification in writing to the individual identified as the contact person; and [.]

(5) Information necessary to update the solid waste management area plan.

[Section 5. Request for Information. The cabinet will provide at no cost one (1) copy of each document listed below to the fiscal court of each county, board of directors or other duly authorized office or agency. Additional copies will be provided upon request, at cost.]

[(1) Kentucky Solid Waste Management Regulations.]

[(2) Kentucky Solid Waste Management Planning Regulations.]

[(3) Guidelines for Land spreading].

[(4) Kentucky Waste Management Plan.]

[(5) Kentucky Solid Waste Management Plan-Executive Summary for the Area Development District which contains the county or two (2) or more counties joined by agreement or which contains a solid waste management district.]

[(6) Guidelines for the Development and Formulation of Area Solid Waste Management Plans.]

Section 3. [6.] Severability. If any section, paragraph, phrase, sentence or clause of this chapter is declared invalid or unconstitutional for any reason, the remainder of this chapter shall not be affected thereby.

FRANK DICKERSON, Commissioner
CARL H. BRADLEY, Secretary

APPROVED BY AGENCY: January 9, 1990
FILED WITH LRC: January 15, 1990 at 9 a.m.
PUBLIC HEARING: A public hearing to receive comments on this proposed regulation will be conducted February 22, 1990 at 10 a.m. (EDT), in the first floor auditorium of the New State Office Building, High and Clinton Streets, Frankfort, Kentucky. Persons interested in attending this public hearing shall notify in writing at least five days prior to the hearing: David W. Morgan, Division of Waste Management, Frankfort Office Park, 18 Reilly Road, Frankfort, Kentucky 40601. Persons wishing to submit written comments without attending the hearing may do so, if the written comments are received in the Frankfort office of the Department for Environmental Protection by 4:30 p.m.(EDT) on February 22, 1990.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Susan C. Bush, Director
(1) Type and number of entities affected: The proposed amendments to this regulation apply to all counties and urban county governments. Counties may enter into agreements with other counties or cities to form a solid waste management area and to develop a solid waste plan.
(a) Direct and indirect costs or savings to those affected:
1. First year: Counties are encouraged to establish multicounty solid waste management areas to achieve greater economies of scale in the management of solid waste problems. Requirements to establish such districts will require minimal expenditures, if any.
2. Continuing costs or savings: Counties are encouraged to establish multicounty solid waste management areas. If the counties' management efforts are centrally located, they will incur a savings due to the elimination of duplicate services and greater efficiency in the management of solid waste problems.
3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors associated with this regulation that will increase or decrease costs to counties. The cabinet is proposing regulations to include new design and operational requirements for sanitary landfills. These changes will result in additional disposal costs at sanitary landfills and require planning efforts to be such that all mechanisms to reduce the waste stream are being implemented. It is anticipated that some landfills will elect to close rather than upgrade to meet the proposed federal and state requirements. This will result in increased efforts to locate another permitted disposal site.
(b) Reporting and paperwork requirements: There are no reporting or paperwork requirements for this regulation.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: The Division of Waste Management already has the responsibility to provide informational assistance, such as clarification of purpose and definitions. The proposed amendments to this regulation clarify and reorganize current procedures. While this regulation does not add new responsibilities, additional staffing will be necessary to review the solid waste plans, which will be renewed beginning in 1990, and to address the technical assistance requests received. The cabinet, through its planning process and biennial budget, is requesting six (6) additional staff persons to address the responsibilities given under KRS Chapter 224.
2. Continuing costs or savings: This regulation will not involve any continuing costs or savings to the cabinet other than the staffing needs identified under (2)(a)1.
3. Additional factors increasing or decreasing costs: There are no additional factors associated with this regulation that will increase or decrease costs to the cabinet.
(b) Reporting and paperwork requirements: The proposed amendments to this regulation are for clarification purposes. There are no reporting or paperwork requirements for this regulation.
(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.
(4) Assessment of alternative methods; reasons why alternatives were rejected: This regulation is for general information and clarification purposes and provides definitions of solid waste terms relevant to the planning process. There are no requirements associated with this regulation.
Alternative: 1. Less stringent: There are no new requirements associated with this regulation; therefore, less stringent alternatives were not considered.
2. More stringent: There are no new requirements associated with this regulation; therefore, more stringent alternatives were not considered.
3. Present proposal: This regulation defines the essential terms and sets forth the general provisions applicable to all entities seeking designation as a solid waste management area.
(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 overlap, duplicate or conflict with this regulation.
(a) Necessity of proposed regulation if in conflict: There is no conflict.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no conflict.
(6) Any additional information or comments: There are no additional comments.
TIERING: Was tiering applied? Yes. This regulation applies to counties and urban county governments, combinations of counties and waste management districts.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. The proposed amendments to this administrative regulation are consistent with the requirements of the federal Resource Conservation and Recovery Act of 1976, as amended. The changes clarify and reorganize present procedures and do not constitute a change in policy.
2. State compliance standards. KRS 224.887 requires the cabinet to promulgate regulations for counties to create solid waste management areas and to require planning for the management and recovery of solid waste. The proposed

administrative regulation establishes the minimum standards for solid waste management planning, including the formation of districts and other key definitions used in solid waste management.

3. Minimum or uniform standards contained in the federal mandate. The federal mandate contains minimum standards for development and implementation of a state plan and upgrading of open dumps.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This administrative regulation imposes different requirements but is consistent with federal requirements for solid waste planning. Different requirements are for plan development and implementation to be done on a county level and to be consistent with the Kentucky waste management plan, as determined necessary by the cabinet.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Counties and waste management districts are required by KRS 224.887 to develop solid waste management plans and form solid waste management areas. Since each county is unique in resources and problems, planning will be tailored to specific problems and implementation will be more efficient.

JUSTICE CABINET
Department of State Police
(Proposed Amendment)

502 KAR 45:020. Qualifications.

RELATES TO: KRS 16.040, 16.050
STATUTORY AUTHORITY: KRS 16.050, 16.080
NECESSITY AND FUNCTION: KRS 16.040 and 16.050 provide that the Commissioner of the Department of State Police and the State Police Personnel Board may establish minimum physical requirements and conduct such tests and examinations as necessary to assure the fitness of applicants for employment as officers. This regulation establishes certain qualifications required of applicants.

Section 1. Each applicant shall possess a valid Kentucky motor vehicle operator's license against which no more than five (5) penalty points have been assessed by the Division of Driver's Licensing.

Section 2. Each applicant with prior military service in the armed forces of the United States shall have been honorably discharged. Initial general discharges under honorable conditions shall not be acceptable.

Section 3. The commissioner shall review any prior experience in police administration or law enforcement of any applicant desiring to substitute such experience for the educational requirements and determine if the prior experience will be deemed sufficient to waive the requirement.

Section 4. Each applicant shall meet the following physical requirements:

(1) Each applicant shall have [be at least five (5) feet six (6) inches in height, with] weight proportional to height according to tables promulgated by the commissioner.

(2) Each applicant shall have at least 20/50 vision in each eye without corrective lens, correctable to 20/20 in each eye with corrective lens, with no color blindness and a normal field of vision.

(3) Each applicant must be in good health with no speech defect or marked deformity, which would impede or impair the performance in the job for which applicant has applied.

W. MICHAEL TROOP, Secretary
APPROVED BY AGENCY: January 12, 1990
FILED WITH LRC: January 15, 1990 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 26, 1990 at 10 a.m., at Headquarters, Kentucky State Police, 919 Versailles Road, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 21, 1990, 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: H. Bradley Smith, General Counsel, Justice Cabinet, 417 High Street, 3rd Floor, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: H. Bradley Smith

(1) Type and number of entities affected: All cadet applicants.

(a) Direct and indirect costs or savings to those affected: No fiscal impact.

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements: No impact.

(2) Effects on the promulgating administrative body: Increase number of potential applicants.

(a) Direct and indirect costs or savings: No fiscal impact.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: No impact.

(3) Assessment of anticipated effect on state and local revenues: No fiscal impact.

(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative method was considered.

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

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to

harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. This regulation is applicable to all cadet applicants equally and will be applied uniformly.

JUSTICE CABINET
Department of State Police
(Proposed Amendment)

502 KAR 45:040. Application.

RELATES TO: KRS 16.050
STATUTORY AUTHORITY: KRS 16.050, 16.080
NECESSITY AND FUNCTION: KRS 16.040 and 16.050 provide that the Commissioner of the Kentucky State Police and the State Police Personnel Board may adopt such regulations as necessary to assure appointment of qualified officers to the department. This regulation outlines the application contents.

Section 1. Applications shall be made on forms prescribed by the commissioner and provided by the department. All applications shall be filed on or prior to the closing date specified in the notice. Applications shall be completed in the applicant's own handwriting. The truth of the information given in the application shall be certified by the applicant's oath and signature and the application shall be signed and sworn to before a person authorized to administer oaths by the laws of Kentucky.

Section 2. The following documents shall be submitted with the application:
(1) A certified copy of the applicant's certificate of birth;
(2) An official transcript of high school and college classes showing grades received, credits or units earned and degrees conferred;
(3) A copy of Separation from Service, Form DD 214, if applicable; and
(4) Such other documents as required by the commissioner.

Section 3. (1) Upon submission of the application and documents set forth in Section 2 of this regulation, applicant will submit to an initial interview.
(2) Each applicant interviewed will be scored in each of five (5) categories. The categories are: physical impressions; mental alertness; motivation; maturity and work history; and communicative ability. In each category, the applicant will be scored on a range from zero to five (5). For purpose of overall scoring, a weight of ten (10) percent will be assigned.

W. MICHAEL TROOP, Secretary
APPROVED BY AGENCY: January 12, 1990
FILED WITH LRC: January 15, 1990 at 10 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 26, 1990 at 10 a.m., at Headquarters, Kentucky State Police, 919 Versailles Road, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 21, 1990, 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: H. Bradley Smith, General Counsel, Justice Cabinet, 417 High Street, 3rd Floor, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: H. Bradley Smith
(1) Type and number of entities affected: All cadet applicants.
(a) Direct and indirect costs or savings to those affected: No fiscal impact.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: No impact.
(2) Effects on the promulgating administrative body: Increase number of potential applicants.
(a) Direct and indirect costs or savings: No fiscal impact.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: No impact.
(3) Assessment of anticipated effect on state and local revenues: No fiscal impact.
(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative method was considered.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No conflict.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. This regulation is applicable to all cadet applicants equally and will be applied uniformly.

JUSTICE CABINET
Department of State Police
(Proposed Amendment)

502 KAR 45:050. Physical examination.

RELATES TO: KRS 16.040
STATUTORY AUTHORITY: KRS 16.080
NECESSITY AND FUNCTION: KRS 16.040 provides that the Commissioner of the Department of State Police may establish minimum physical requirements and conduct such tests and examinations as necessary to assure the fitness of applicants for employment as officers. This regulation outlines the physical requirements and the physical examination requirement.

Section 1. (1) Each applicant shall be

required to submit to a physical examination by a qualified, licensed physician retained by the department for that purpose as a part of the selection process.

(2) The department may, if deemed necessary by the commissioner, allow the applicant to be examined by a physician of the applicant's choice at his own expense. If a physician other than one retained by the department performs the examination, he shall be required to fill out and sign the department's physical examination forms.

Section 2. The following guidelines are to be used to determine if the applicant is in good health:

(1) Nose, throat, and speech. Chronic catarrh, sinus trouble, deviated septum, or chronically infected or enlarged tonsils shall be deemed cause for rejection. Deformities of the mouth or lips and speech impediments, including stammering and stuttering, shall be deemed cause for rejection.

(2) Teeth. All teeth shall be in good repair. Dentures or artificial replacements are acceptable.

(3) Ears. Hearing shall be normal in both ears; an average loss of thirty (30) decibels or more in either ear at the 500, 1000, 2000 or 3000 Hertz level as shown by audiometer test shall be deemed cause for rejection.

(4) Thyroid. Goiter or improperly functioning thyroid shall be deemed cause for rejection.

(5) Chest. Respiration shall be full, easy and regular; respiration shall be clear and distinct over both lungs.

(6) Heart. The action of the heart shall be uniform, free and steady, with regular rhythm; the heart shall be free from organic diseases. Blood pressure shall be within the limits of 135/80 and 110/74.

(7) Genitalia. Hydrocele or large varicorele, deformity of testicles, tumor formation, epidymites and venereal disease shall be deemed cause for rejection.

(8) Rectum. Hemorrhoids, fissure, fistula and pilonial cyst shall be deemed cause for rejection.

(9) Trunk and extremities. Poor posture, curvature of the spine, deformed chest, bow legs, knock knees, weak ankles, flat feet, deformed toes, shortening of long bones, enlarged or poorly functioning joints, amputated fingers or toes, varicose veins, paralysis or defective gait shall be deemed cause for rejection.

(10) Organic diseases. Family history of any hereditary disease, history of dizziness, epilepsy, confinement for mental illness in any institution, stomach ulcer, kidney disease, albuminuria or glycosuria, anemia, or skin disease shall be deemed cause for rejection.

Section 3. Each applicant shall submit to and pass a physical ability test based upon standards set by the commissioner. This test shall cover four (4) areas based upon sex: height to weight ratio; bench press in relation to body weight; flexibility; and sit-ups.

W MICHAEL TROOP, Secretary
APPROVED BY AGENCY: January 12, 1990
FILED WITH LRC: January 15, 1990 at 10 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 26, 1990 at 10 a.m. at Headquarters, Kentucky State Policy, 919 Versailles Road, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 21, 1990, 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: H. Bradley Smith, General Counsel, Justice Cabinet, 417 High Street, 3rd Floor, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: H. Bradley Smith
(1) Type and number of entities affected: All cadet applicants.
(a) Direct and indirect costs or savings to those affected: No fiscal impact.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: No impact.
(2) Effects on the promulgating administrative body: Increase number of potential applicants.
(a) Direct and indirect costs or savings: No fiscal impact.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: No impact.
(3) Assessment of anticipated effect on state and local revenues: No fiscal impact.
(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative method was considered.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No conflict.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. This regulation is applicable to all cadet applicants equally and will be applied uniformly.

JUSTICE CABINET
Department of State Police
(Proposed Amendment)

502 KAR 45:060. Written examination.

RELATES TO: KRS 16.050
STATUTORY AUTHORITY: KRS 16.050
NECESSITY AND FUNCTION: KRS 16.050 requires

the State Police Personnel Board to establish open competitive examination of applicants for employment as officers. This regulation describes the written examination.

Section 1. Examinations shall be in written form and practical in nature. They shall be designed and constructed to reveal the capacity of the applicant for employment as a sworn officer of the department.

Section 2. Examinations shall be administered at such times and places as designated by the commissioner. The commissioner may direct that examinations be conducted regionally if he finds regional examinations to be convenient and practicable.

Section 3. Applicants may take the examination only one (1) time per twelve (12) months [for each eligibility register established].

Section 4. Applicants who submit an incomplete or inaccurate application shall not be allowed to take the examination.

Section 5. Applicants who fail to meet the educational, citizenship and residency, operator's license, age, honorable discharge, or height and weight qualifications [or who fail the physical examination] shall not be allowed to take the written examination.

Section 6. Examinations shall be rated impartially and each examinee shall be notified as to whether he passed or failed to pass the examination. Examinees shall be advised of the score they attained on the examination upon individual request. A score of fifty (50) percent shall be the minimum passing score on the examination. For purpose of overall scoring, a weight of forty (40) percent will be assigned to the passing score. [All passing scores shall be accorded equal weight.]

Section 7. All applicants shall be accorded uniform and equal treatment in all phases of the examination procedure.

W. MICHAEL TROOP, Secretary
APPROVED BY AGENCY: January 12, 1990
FILED WITH LRC: January 15, 1990 at 10 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 26, 1990 at 10 a.m., at Headquarters, Kentucky State Police, 919 Versailles Road, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 21, 1990, 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: H. Bradley Smith, General Counsel, Justice Cabinet, 417 High Street, 3rd Floor, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: H. Bradley Smith
(1) Type and number of entities affected: All cadet applicants.
(a) Direct and indirect costs or savings to those affected: No fiscal impact.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: No impact.
(2) Effects on the promulgating administrative body: Increase number of potential applicants.
(a) Direct and indirect costs or savings: No fiscal impact.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: No impact.
(3) Assessment of anticipated effect on state and local revenues: No fiscal impact.
(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative method was considered.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No conflict.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. This regulation is applicable to all cadet applicants equally and will be applied uniformly.

JUSTICE CABINET
Department of State Police
(Proposed Amendment)

502 KAR 45:080. Oral interview.

RELATES TO: KRS 16.050
STATUTORY AUTHORITY: KRS 16.050
NECESSITY AND FUNCTION: KRS 16.050 requires the State Police Personnel Board to establish open competitive examination of applicants for employment as officers. This regulation describes the oral interview component of the examination.

Section 1. (1) Each applicant having the statutory qualifications and who passes the written, physical ability and vision examinations shall be interviewed by an oral interview panel appointed by the commissioner.
(2) Each oral interview panel shall consist of three (3) members. Two (2) members shall be either active or retired officers of the department and the third member shall be a civilian. All members shall be familiar with the equal employment opportunity provision of Chapter 344 of the Kentucky Revised Statutes.
(3) The commissioner shall appoint one (1) or more panels as needed. [Whenever practicable, all applicants who qualify for the oral

interview shall be interviewed by the same panel.]

(4) A member of the panel shall disclose each instance in which he knows an applicant personally and that applicant shall be interviewed by another panel or the member who knows the applicant shall be replaced by an alternate for that particular interview, whichever is more practical under the circumstances.

Section 2. (1) Each interview shall be structured in such a manner that all applicants are asked the same questions and rated in the same manner.

(2) Each applicant interviewed will be scored in each of six (6) [five (5)] categories by each panel member. The categories are:

(a) Maturity, emotional stability and ego strength;

(b) Conscientious and persistence;

(c) Social boldness and venturesomeness;

(d) Self-assuredness;

(e) Self-sufficiency; and

(f) Self-discipline.

[general appearance; motivation; aptitude; self-appraisal; and, communication skills.] For each category, the applicant will be scored on a range from zero to five (5). For purpose of overall scoring, a weight of fifty (50) percent will be assigned. [each panel member shall score the applicant either minus one (-1), indicating a negative reaction by the panel member; plus one (+1), indicating a positive reaction, or zero, indicating a neutral reaction. All the scores for each category by each panel member are added together, giving an overall score that could range from minus fifteen (-15) to plus fifteen (+15). This score is used to determine the order in which applicants are considered by the board. The board may determine a minimum score below which an application shall not be approved. This determination shall be based upon the needs of the department, the positions available, and the number of applicants for such positions.]

(3) The score sheets submitted by the members of the oral interview panel shall be retained in the applicant's file and shall be confidential. Applicants shall be notified of their [overall] score on the oral interview upon request and presentation of proper identification. Applicants shall not be allowed to see the score sheets submitted by the individual members of the oral interview panel.

W. MICHAEL TROOP, Secretary
APPROVED BY AGENCY: January 12, 1990
FILED WITH LRC: January 15, 1990 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 26, 1990 at 10 a.m., at Headquarters, Kentucky State Police, 919 Versailles Road, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 21, 1990, 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: H. Bradley Smith, General Counsel, Justice Cabinet, 417 High Street, 3rd Floor, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: H. Bradley Smith

(1) Type and number of entities affected: All cadet applicants.

(a) Direct and indirect costs or savings to those affected: No fiscal impact.

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements: No impact.

(2) Effects on the promulgating administrative body: Increase number of potential applicants.

(a) Direct and indirect costs or savings: No fiscal impact.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: No impact.

(3) Assessment of anticipated effect on state and local revenues: No fiscal impact.

(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative method was considered.

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments:

TIERING: Was tiering applied? No. This regulation is applicable to all cadet applicants equally and will be applied uniformly.

JUSTICE CABINET
Department of State Police
(Proposed Amendment)

502 KAR 45:090. Background investigations.

RELATES TO: KRS 16.040, 16.050
STATUTORY AUTHORITY: KRS 16.050, 16.080
NECESSITY AND FUNCTION: KRS 16.040 and 16.050 direct the Commissioner of the Department of State Police and the State Police Personnel Board to assure the fitness of candidates for employment. This regulation describes the background investigation undertaken on candidates.

Section 1. All applicants who successfully complete the oral interview shall be investigated to ensure that each officer hired is of good moral character and in order to verify the truthfulness of information submitted in the application. Each applicant shall be advised that his background will be

investigated. The applicant shall consent to such an investigation and shall sign a form specifically indicating his consent and authorizing the department of have access to any records on file concerning the applicant. Failure to consent to a background investigation shall eliminate an applicant from consideration for employment.

Section 2. Background investigations shall be conducted by individuals [officers] selected by the commissioner. Special training shall be given those individuals [officers] chosen. All investigations shall be conducted according to the investigative guide formulated by the commissioner and designed to ensure that all such investigations are conducted in an impartial and uniform manner. Applicants who have lived in another state shall be investigated by the appropriate law enforcement agency in that state, at the request of the commissioner. No applicant shall be considered for employment until the background investigation is completed. Reports of all background investigations shall remain confidential and shall be filed in headquarters.

Section 3. A background investigator shall not have the discretion to terminate an applicant except in the following instances:

(1) Intentional falsification of information on the application; or

(2) Discovery of a conviction of an offense classified under the laws of Kentucky as a felony if the offender was tried as an adult and if the offender has not been pardoned.

Section 4. The individuals [officer] conducting the background investigation may make a recommendation to the board as to whether the applicant should be approved for employment or not. If the background investigator recommends that the applicant not be approved for employment, such recommendation shall be substantiated in the report of investigation by articulable fact. The board may give such weight to the recommendation as they in their discretion decide.

Section 5. All reports of background investigations shall be confidential. Information obtained as a result of a background investigation shall not be disseminated. Reports of background investigations shall be filed at Kentucky State Police Headquarters in a secure file to which only the commissioner shall have access. No such report shall be filed locally and no copy of such report shall be made.

Section 6. The background investigation report shall provide the basis for a determination by the board as to whether the applicant is of good moral character. After the report has been reviewed by the board, the report shall be filed as provided for in Section 5 of this regulation.

W. MICHAEL TROOP, Secretary

APPROVED BY AGENCY: January 12, 1990

FILED WITH LRC: January 15, 1990 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 26, 1990 at 10 a.m., at Headquarters, Kentucky State Police, 919 Versailles Road, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 21, 1990, 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: H. Bradley Smith, General Counsel, Justice Cabinet, 417 High Street, 3rd Floor, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: H. Bradley Smith

(1) Type and number of entities affected: All cadet applicants.

(a) Direct and indirect costs or savings to those affected: No fiscal impact.

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements: No impact.

(2) Effects on the promulgating administrative body: Increase number of potential applicants.

(a) Direct and indirect costs or savings: No fiscal impact.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: No impact.

(3) Assessment of anticipated effect on state and local revenues: No fiscal impact.

(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative method was considered.

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments:

TIERING: Was tiering applied? No. This regulation is applicable to all cadet applicants equally and will be applied uniformly.

JUSTICE CABINET
Department of State Police
(Proposed Amendment)

502 KAR 45:100. Psychological assessment.

RELATES TO: KRS 16.040, 16.050

STATUTORY AUTHORITY: KRS 16.050, 16.080

NECESSITY AND FUNCTION: KRS 16.040 and 16.050 direct the Commissioner of the Department of State Police and the State Police Personnel Board to assure the fitness of candidates for employment. This regulation describes the

psychological assessment required of candidates.

Section 1. All selected applicants [who successfully complete the oral interview] shall submit to a psychological assessment by a qualified, licensed psychologist retained by the department for that purpose. The applicant shall consent to such assessment and must sign a form specifically indicating his consent. Failure to consent to a psychological assessment shall eliminate an applicant for consideration from employment.

Section 2. All reports of psychological assessment shall be confidential. No copies of such reports shall be made or disseminated.

Section 3. The psychological assessment shall provide a basis for determination by the board as to whether the applicant is psychologically fit to be employed by the department.

Section 4. After the report has been reviewed by the board, the report shall then be filed at Kentucky State Police Headquarters in a secure file to which only the commissioner or his authorized designee shall have access.

W. MICHAEL TROOP, Secretary
APPROVED BY AGENCY: January 12, 1990
FILED WITH LRC: January 15, 1990 at 10 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 26, 1990 at 10 a.m., at Headquarters, Kentucky State Police, 919 Versailles Road, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 21, 1990, 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: H. Bradley Smith, General Counsel, Justice Cabinet, 417 High Street, 3rd Floor, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: H. Bradley Smith
(1) Type and number of entities affected: All cadet applicants.
(a) Direct and indirect costs or savings to those affected: No fiscal impact.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: No impact.
(2) Effects on the promulgating administrative body: Increase number of potential applicants.
(a) Direct and indirect costs or savings: No fiscal impact.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: No impact.
(3) Assessment of anticipated effect on state and local revenues: No fiscal impact.
(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative method was considered.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No conflict.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. This regulation is applicable to all cadet applicants equally and will be applied uniformly.

JUSTICE CABINET
Department of State Police
(Proposed Amendment)

502 KAR 45:110. Register.

RELATES TO: KRS 16.050
STATUTORY AUTHORITY: KRS 16.050
NECESSITY AND FUNCTION: KRS 16.050 requires the State Police Personnel Board to establish a list of persons eligible for employment as officers of the department. The lists are to be based on the results of the competitive exams. This regulation describes the register.

Section 1. The commissioner shall establish and maintain a register of the names of applicants eligible for appointment to the position of cadet trooper. The commissioner, in his discretion, shall determine, based upon the needs of the department, projected attrition, authorized strength levels, and numbers of applicants, the date of establishment of the register and the number of appointments to be made from the register.

Section 2. The register shall be a continuous register [expire automatically at the end of one (1) year from the time of its establishment] unless the [time] period is [extended or] shortened by action of the commissioner. An applicant who has not been selected for employment within eighteen (18) months after being placed on the register, shall be stricken from the register.

Section 3. (1) Selected applicants who have passed all phases of the examination process shall be presented to the board [for action according to the score received on the oral interview].
(2) All selected applicants [receiving the highest score on the oral interview] shall be presented to the board in rank [alphabetical] order. The board may approve an applicant for employment, or [in which case the applicant's name shall be placed upon the register in the manner described in this regulation;] disapprove an applicant for employment, in which case the applicant shall [may] not be allowed to again apply for twelve (12) months [until the register

for which he initially applied has expired or if it will expire prior to the completion of action by the department and the board upon the subsequent application; or the board may defer action on an application for a period not to exceed three (3) years, during which time the application shall remain active unless the applicant expressly withdraws the application].

[(3) Applicants who are approved by the board for employment shall be placed on the register. All applicants who received the same scores on the oral interviews shall be ranked together with those applicants having the highest scores being ranked first. Candidates shall be ordered within their rank as determined by lot. Those candidates who are entitled to receive the statutory veterans' preference shall be placed first within their ranking.]

Section 4. The commissioner may, on receipt of authoritative information, remove the name of a candidate from a register:

(1) For any of the reasons found in those regulations relating to disqualification of applicants;

(2) If the candidate cannot be located by postal authorities;

(3) If the candidate responds that he no longer desires consideration for a position;

(4) If the candidate declines an offer of appointment;

(5) If it is shown that the candidate is not qualified or is unsuitable for appointment;

(6) If the candidate accepts an appointment and fails to present himself for duty without giving a satisfactory reason for his failure to appear; or

(7) If the candidate indicates he is not available or does not wish to be considered for employment.

W. MICHAEL TROOP, Secretary

APPROVED BY AGENCY: January 12, 1990

FILED WITH LRC: January 15, 1990 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 26, 1990 at 10 a.m., at Headquarters, Kentucky State Police, 919 Versailles Road, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 21, 1990, 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: H. Bradley Smith, General Counsel, Justice Cabinet, 417 High Street, 3rd Floor, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: H. Bradley Smith

(1) Type and number of entities affected: All cadet applicants.

(a) Direct and indirect costs or savings to those affected: No fiscal impact.

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements: No impact.

(2) Effects on the promulgating administrative body: Increase number of potential applicants.

(a) Direct and indirect costs or savings: No fiscal impact.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: No impact.

(3) Assessment of anticipated effect on state and local revenues: No fiscal impact.

(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative method was considered.

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments:

TIERING: Was tiering applied? No. This regulation is applicable to all cadet applicants equally and will be applied uniformly.

JUSTICE CABINET
Department of State Police
(Proposed Amendment)

502 KAR 45:120. Appointment.

RELATES TO: KRS 16.050

STATUTORY AUTHORITY: KRS 16.050, 16.080

NECESSITY AND FUNCTION: KRS 16.050 authorizes the Commissioner of the Department of State Police to appoint such persons as officers as necessary for the efficient administration of the department. KRS 16.050 directs appointments to vacancies to be made from lists of eligibles. This regulation outlines the method of appointment.

Section 1. The commissioner, in his discretion, shall determine, based on the needs of the department, projected attrition, and authorized strength levels, the number of candidates to be appointed to the position of cadet trooper.

Section 2. The commissioner shall appoint candidates to the rank of cadet trooper from the register <u>as recommended by the board.</u> [in the order they are listed. If there are insufficient candidates in the first rank, he will proceed to the second rank and continue until there are sufficient numbers of appointments to fill the vacancies.]

Section 3. The commissioner shall notify appointees of the time and place to report for duty by certified mail. The commissioner may require that the appointee acknowledge the appointment and indicate acceptance on a form

provided by the department.

W. MICHAEL TROOP, Secretary
APPROVED BY AGENCY: January 12, 1990
FILED WITH LRC: January 15, 1990 at 10 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 26, 1990 at 10 a.m., at Headquarters, Kentucky State Police, 919 Versailles Road, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 21, 1990, 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: H. Bradley Smith, General Counsel, Justice Cabinet, 417 High Street, 3rd Floor, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: H. Bradley Smith
(1) Type and number of entities affected: All cadet applicants.
(a) Direct and indirect costs or savings to those affected: No fiscal impact.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: No impact.
(2) Effects on the promulgating administrative body: Increase number of potential applicants.
(a) Direct and indirect costs or savings: No fiscal impact.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: No impact.
(3) Assessment of anticipated effect on state and local revenues: No fiscal impact.
(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative method was considered.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No conflict.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. This regulation is applicable to all cadet applicants equally and will be applied uniformly.

TRANSPORTATION CABINET
Department of Highways
Divisions of Planning & Maintenance
(Proposed Amendment)

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 system which the Department of Highways has judged may be so damaged and prescribes the maximum weight limit for each of these 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 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 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
	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
*	KY 72	1.0 Mine	3.4 Harlan CO LN
*	KY 74	0.0 Tennessee State LN	0.9 KY 535
		9.8 Mine	16.1 KY 2079
	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		
*	KY 92	0.0 Whitley CO LN	10.8 US 25E
*	KY 186	2.2 Appollo Tipple	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	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 Hen Wilder RD	13.5 KY 217
*	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	9.0 KY 66
*	KY 2012	0.0 Private Haul RD	0.1 Hen Wilder RD
*	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		

	ROAD	FROM	TO
*	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
	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
*	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 tons, TY III = 43 tons, TY IV = 60 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		
	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	2.0 US 23
*	US 60	0.0 Carter CO LN	12.4 US 23
	Weight Limit - Bridge over C & O R.R. at Princess @ milepoint 2.69		
	TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 60 tons		
*	US 60Z	0.0 US 23	0.2 US 60
*	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 757	6.2 US 23	10.2 US 23
*	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

	ROAD	FROM	TO
*	County Line Tipple Road		
	CR 5300	0.0 US 23	0.3 County Line Tipple
*	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 tons, TY III = 30 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)
*	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	18.6 Magoffin CO LN
*	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
*	Springsfork Road		
	CR 5032	0.0 KY 542	1.4 Mine Access

	ROAD	FROM	TO
*	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 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

*	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	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

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

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

CARTER COUNTY

	ROAD	FROM	TO
*	US 60	24.1 KY 1 and KY 7	24.8 KY 1
		29.7 Fighting Fork RD	35.0 Boyd CO LN
*	KY 1	0.0 Lawrence CO LN	10.6 US 60
	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	28.1 KY Hopkins CO LN
*	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		
*	KY 1296	2.7 Campbell Cemetery RD	5.2 US 41
*	Campbell Cemetery Road		
	CR 5418	0.0 KY 1296	2.0 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	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	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
*	KY 80	4.8 New Truckers Tipple	7.5 US 421
	*	KY 1524	0.0 US 421 1.1 KY 2000
*	KY 2000	0.0 KY 1524	4.6 Sand Hill RD
*	KY 2432	0.0 Sester Road	1.4 Panama SCH RD
*	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

*	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

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 Access

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

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 US 60 Bypass	28.0	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 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)	1.9	Mine
		(Via Industrial Dr. & Medley-Roost Rd.)		
*	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	1.8	Indian Hill Rd
*	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	19.3 Carter CO LN

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)
	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		
	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
*	KY 80	0.0 Knott CO LN	14.4 US 23 & KY 3
*	KY 114	0.0 Magoffin CO LN	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
		24.3 Mine	31.6 KY 466
*	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

*	KY 680	0.0 KY 122	0.9 KY 1929
		1.6 Joseph Mining Tipple	5.4 KY 979
*	KY 777	6.5 Mine	9.1 KY 80
*	KY 850	3.0 Mine	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

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
		6.6 KY 979	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 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
*	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
*	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
*	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
*	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
	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	0.6 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
*	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
*	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 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
*	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
*	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			
*	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

GREENUP COUNTY

	ROAD	FROM	TO	
*	US 23	0.0 Boyd CO-LN	11.6	KY 2541
	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			
*	KY 1	11.4 KY 207	17.3	US 23
*	KY 207	0.0 Carter CO LN	0.5	Logtown Hollow RD
		8.3 Woods RD	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

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
	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			
	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	17.0	KY 179
*	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	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 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 221	0.0 Bell CO LN	8.9	US 421 (South)
		8.9 US 421 (North)	21.6	KY 2008
*	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
*	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 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 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
*	Slack Cemetery Road			
	CR 5140	0.0 US 421 (North)	0.4	Tipple
*	Barn Branch Road			
	CR 5142	0.0 US 421	0.4	Mine Access RD
*	Grays Branch Road			
	CR 5206K	0.0 US 421 @ Grays Knob	0.4	Tipple
	Weight Limit - Bridge over Martins Fork			
	TY I = 20 tons, TY II = 20 tons, TY III = 20 tons, TY IV = 20 tons			
*	Foresters Creek Road			
	CR 5238	0.0 KY 3449	1.7	Mine Access RD
*	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			
*	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)	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)
	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)	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	18.7 US 41A

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

		18.7	US 41A	26.4 Muhlenberg CO LN

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 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	9.8 US 41A

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

*	KY 262	0.0	KY 630	2.6 Bean Cemetery RD

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	5.8 US 41A
*	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	10.2	Mortons Gap-WH CTY RD	12.3 US 41A
*	KY 814	0.0	KY 109	1.4 Webster CO LN
*	KY 870	0.0	KY 112	0.2 Southard Church Road

(Extended weights shall be available only for types III and IV vehicles.)

*	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 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
*	Mortons Gap-White City Road			
	CR 5153	0.0	KY 813	1.8 Mine
*	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
*	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
*	Peter Howton Road			
	CR 5330	0.0 KY 70	0.3	Mine
*	Bean Cemetery Road			
	CR 5396	0.4 Mine	2.9	KY 262
	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
	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
*	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			
		16.7 US 42	17.8	US 31W @ Second Street
*	US 31W	3.2 Kosmos Cement CO	22.1	US 31E @ Second Street
*	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
*	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	8.4	US 31W
*	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	4.7	Martin CO LN
*	KY 40	7.2 KY 172	8.7	US 460
		8.7 US 23	13.3	Deadfall Branch RD
*	KY 172	6.9 Joe Salyers Branch RD	12.4	KY 40
	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	6.5 KY 3	
*	KY 2381	0.0 US 23	2.2 KY 302	
*	Deadfall Branch Road			
	CR 5139	0.0 KY 40	0.6 Mine Access Road	

KNOTT COUNTY

	ROAD	FROM	TO
*	KY 7	2.5 KY 1498	16.0 Floyd CO LN
	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
	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		
	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
	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
*	KY 550	23.8 Big Springs RD	26.6 Floyd CO LN
	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	7.7 National Mines Mine	12.2 KY 7
	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		
	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	14.1 KY 80
*	KY 1088	3.9 Young's Fork RD	9.4 KY 15
	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		
	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
*	KY 1393	2.8 KY 899	4.9 KY 160
*	KY 1410	0.0 KY 160	4.7 Letcher CO LN
	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
	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
	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 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 312	0.0 Whitley CO LN	1.3 US 25E
*	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 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
*	Swan Pond Road		
	CR 5209	0.0 KY 11	1.9 Mine
*	Stoney Fork Road		
	CR 5210	0.0 KY 1809	1.0 Mine

	ROAD	FROM	TO
*	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
*	Dowis Road		
	CR 5248	0.0 KY 6	0.9 Mosley Branch RD
*	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
	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
*	KY 30	1.4 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		
*	KY 192	18.2 I-75	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		

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
		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

*	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	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 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
*	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 - Bridge 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

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
		20.6	KY 2431	22.6	KY 18
		26.8	Wet Rockhouse Branch	35.4	Clay CO LN
*	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 699	0.0	KY 80	13.6	Old Big Rock RD
	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
*	KY 2008	0.0	KY 2009	3.0	Mine Access RD
		5.2	Mine	8.2	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 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	3.3 Wendover RD
*	Camp Creek Road			
	CR 5005	0.0	Hurricane Creek RD	0.7 Tipple Access
*	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
*	Abner Branch Road			
	CR 5133	0.0	Harlan CO LN	1.3 KY 2008
*	White Oak Road			
	CR 5135	0.0	KY 2008	0.8 Mine
*	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
		20.7	KY 1862	27.7 US 23
*	KY 7	0.0	Perry CO LN	25.2 KY 317
	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	KY 7	10.7 Knott CO LN
*	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
		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
*	KY 805	0.0	US 119	3.1 KY 317
*	KY 931	7.7	Hampton Branch RD	*
		16.4	Clay Hollow	18.4 KY 7
*	KY 1103	6.0	Private Haul RD	8.2 Tolby Branch RD
*	KY 1410	0.0	Knott CO LN	1.6 KY 7
*	KY 1862	1.2	KY 3410	1.7 US 119
		6.4	Mine	9.9 KY 931
*	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
*	Beaverdam Branch Road			
	CR 5047	0.0	KY 7	2.7 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
*	Cram Creek Road			
	CR 5169	0.9	Wampler Bros Mine	1.4 KY 3410
*	Kingdom Come Creek Road			
	CR 5229	0.0	Ky 588	1.2 Lake Coal Mine
	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 Lake Coal Mine
*	Whitaker Branch Road			
	CR 5259	1.4	Mine	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
*	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

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 62	0.0	Marshall CO LN	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 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

McCREARY COUNTY

	ROAD	FROM		TO	
*	US 27	0.0	Tennessee State LN	22.7	Pulaski CO LN
*	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
*	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	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
*	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 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				

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	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	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	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 114	0.0	US 460	5.0	Floyd CO LN
*	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	5.7	KY 7
		5.7	KY 7	7.4	Hickory Tipple
*	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 1635	0.0	Tiptop-Bettsmann RD	5.7	KY 867
*	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

	ROAD	FROM	TO
*	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

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)
		18.5 Rockcastle BR RD	23.2 Lawrence CO LN
*	KY 40	5.3 KY 1224	9.1 KY 645 (West)
	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		
		10.8 KY 645 (East)	20.3 West Virginia ST LN
*	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 Mine	28.9 KY 3
*	KY 645	0.0 Lawrence CO LN	6.6 KY 3 (North)
		6.6 KY 3 (South)	7.6 KY 40 (East)
*	KY 1224	1.3 Mine	5.2 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	11.2 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 Road		
	CR 5105	3.1 Private Haul RD	3.2 Private Haul RD 1.0 miles SW of Oppy
*	Emily-Long Branch RD		
	CR 5107	0.9 Private Haul RD	1.0 Private Haul 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
*	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

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 127	0.0 Boyle CO LN	4.4	US 68

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)	2.7	KY 11 (South)

MORGAN COUNTY

	ROAD	FROM	TO	
*	US 460	20.1 Malone-Jones Creek RD	28.8	Magoffin CO LN
	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 172	21.0 Cindas Creek RD	22.3	KY 1614
*	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
	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			
*	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
	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	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 County Line	14.7 KY 189	
		(Extended weights shall be available only for TY IV vehicles.)		
		23.6 Barge Dock	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 189	6.0 Mine Access	8.8 US 62 (South Junction)	
		14.0 US 62	15.3 KY 70 (North Junction)	
		(Extended weights shall be available only for TY IV vehicles.)		
*	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	
*	Green River Power Plant Road			
	CR 5045	0.0 US 431	0.7 KY Utilities Plant	
*	Henry Oates Road			
	CR 5392	0.0 US 62	2.3 Mine	

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

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 Horton-MT Pleasant RD

Weight Limit - Bridge over Green River @ milepoint 0.01
TY I = 20 tons, TY II = 27 tons, TY III = 32 tons, TY IV = 38 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

	ROAD	FROM	TO
*	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 KY 69 (East)	11.3 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 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	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		
*	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 US 231	0.7 Mine

OWSLEY COUNTY

	ROAD	FROM	TO
*	KY 11	0.0 Clay CO LN	10.8 KY 1938
	Weight Limit - Bridge over Sexton Creek @ milepoint 1.80		
	TY I = 20 tons, TY II = 39 tons, TY III = 40 tons, TY IV = 53 tons		
	Weight Limit - Bridge over Island Creek @ milepoint 4.02		
	TY I = 20 tons, TY II = 41 tons, TY III = 42 tons, TY IV = 56 tons		
	Weight Limit - Bridge over White Oak Creek @ milepoint 6.18		
	TY I = 20 tons, TY II = 34 tons, TY III = 35 tons, TY IV = 49 tons		
*	KY 30	0.0 Jackson CO LN	10.8 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		
*	KY 847	4.3 Bowman Branch RD	7.2 KY 30
	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

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	
	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 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	
	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			
		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	
	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	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

* 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

* Old KY 15 Loop #1 Road
CR 5102 0.0 KY 15 0.2 Kentucky Prince Tipple

* 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

* Kelly Fork Road
CR 5119 0.0 KY 1095 0.4 Emmons Tipple

* 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

* 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

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) 2.7 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 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
		67.3	Mine	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	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	7.0 KY 1056 @ Ransom

Weight Limit - Bridge over Blackberry Fork North of Hardy
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

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	8.9 KY 122
*	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 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

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
Weight Limit - Bridge over Tug Fork Big Sandy River @ milepoint 11.5
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
*	KY 1426	0.0	Floyd CO LN	4.9 US 23
*	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	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
*	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

Weight Limit - Bridge over Cowpen Creek @ milepoint 0.81
TY I = 18 tons, TY II = 19 tons, TY III = 22 tons, TY IV = 36 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	Meathouse Branch RD	2.7 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
*	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
*	Callahan Branch-Dix Fork Road			
	CR 5023	0.0	Meathouse Fork RD	1.0 Mine
*	Meathouse Branch Road			
	CR 5025	0.0	KY 3154	0.6 Mine
*	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
* 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 4.2 Brushy Fork RD
* 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
* Lick Branch Road
CR 5141 0.0 KY 468 0.8 Jex Big Hill Mine
* Hurricane Creek Road
CR 5162 2.5 Wellmore Mine 3.7 KY 3418
* 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
* Hatfield Branch Road
CR 5210 0.0 KY 319 0.8 Blackberry CR 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
* 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 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
* 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
*	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
*	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
	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	6.3 KY 3226
*	Wolfpen Branch Road		
	CR 5444	0.0 KY 80	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
*	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
*	Island Creek Road		
	CR 5535	0.0 KY 1426	3.3 Mine
*	Ray Branch Road		
	CR 5537	0.0 Island Creek RD	0.7 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	1.6 Apache Mining Mine
*	Robinson Creek Road		
	CR 5554	0.0 KY 3415	1.3 Mine
*	Arnold Fork Road		
	CR 5555	0.0 KY 122	0.3 Apache Mining Mine
*	Lizzie Fork Road		
	CR 5590	0.0 US 23	1.0 Mine
	Weight Limit - Bridge over Caney Creek		
	TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons		
*	Rob Fork Road		
	CR 5593	0.0 US 23	0.5 Damron Fork Tipple
*	Gillespie Branch Road		
	CR 5606	0.0 KY 3226	0.9 Mine
*	Lucy Branch Road		
	CR 5607	0.0 KY 3226	0.3 Mine

	ROAD	FROM	TO
*	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	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
	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
	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 Cumberland River RD
*	Cumberland River Road		
	CR 5225	0.0 Old Whitley RD	0.8 Mine
*	Bauer Road		
	CR 5232	0.0 McCreary CO LN	0.8 Mine

	ROAD	FROM	TO
*	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 - Bridge 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	0.0 Warren County Line	3.2 KAEC Gasahol Plant
		(Extended weights shall be available only to TY IV vehicles with a gross weight of 90,000 pounds or less.)	
		3.2 KAEC Gasahol Plant	6.5 KY 100 in Franklin
		6.5 KY 100 in Franklin	14.0 Tennessee State LN
		(Extended weights shall be available only to TY IV vehicles with a gross weight of 90,000 pounds or less.)	

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	9.2 Mine
	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 (East)
		1.5 US 60 (East)	4.9 KY 492
*	KY 492	1.9 Davis Mine RD	2.5 KY 109
*	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

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 Green River Parkway	9.0 Simpson County LN
		(Extended weights shall be available only to TY IV vehicles with a gross weight of 90,000 pounds or less.)	
*	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
*	Denny Creek Road		
	CR 5024	0.0 KY 776	1.7 Shamrock Mine
*	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 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 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)
	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		
		32.1 KY 26 (North)	32.8 US 25T (South)
*	KY 6	0.8 KY 1064	1.6 Knox CO LN
	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 tons, TY II = 28 tons, TY III = 30 tons, TY IV = 42 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 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) 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 5.1 KY 92 @ Louden
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
TY I = 10 tons, TY II = 10 tons, TY III = 10 tons, TY IV = 10 tons
9.3 KY 779 17.1 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
* 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
* 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
* 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) 0.3 Mine
* 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
* 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

WOLFE COUNTY

	ROAD	FROM	TO
*	Mountain PKWY (KY 402)		
		36.0 Powell CO LN	42.7 KY 155

*	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)	14.0	KY 715
*	KY 15S	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	2.1	KY 15
*	KY 715	2.6	KY 2016	5.8	KY 15
*	KY 2016	0.2	Mine	4.5	KY 715
*	KY 3355	0.0	KY 651	0.9	Mullins Point RD
*	Mullins Point Road CR 5218	0.0	KY 3355	1.6	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 further set forth with specificity those conditions which give rise to inherent and definite hazards or create special conditions which the Secretary of the Transportation Cabinet needs to consider.

Section 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.

O. GILBERT NEWMAN, State Highway Engineer
MILO D. BRYANT, Secretary/Commissioner
APPROVED BY AGENCY: January 4, 1990
FILED WITH LRC: January 9, 1990 at 11 a.m.

PUBLIC HEARING: A public comment hearing will be held on this administrative regulation on February 26, 1990 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 21, 1990 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 21, 1990. 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: 6,000 coal transporters.

(a) Direct and indirect costs or savings to those affected: Savings incurred as a result of being allowed to transport coal at extended weights over more roads.

1. First year: No more than 50 trucks are likely to take advantage of the new road segment in the extended weight system, but each should have a savings of several thousand dollars.

2. Continuing costs or savings: Same

3. Additional factors increasing or decreasing costs (note any effects upon competition): A new coal mine opened just off of KY 879 in 1989. In the first three quarters of 1989 over 60,000 tons of coal were transported over this 0.2 mile

segment of highway. This makes the segment eligible for inclusion in the extended weight system, but the next general update of the system will not take place for several months. If the coal transporters were restricted to the 44,000-pound weight limit of this road, they could not be competitive with other coal transporters in this area who are using the existing extended weight system. The fiscal court felt it appropriate to eliminate this economic barrier.

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: The road segments added to the extended weight system will require more maintenance in future years but not immediately.

(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: The resolutions submitted by the Hopkins County Fiscal Court could have been accepted as submitted or rejected. It was accepted with provisions limiting the trucks to those with four or more axles to spread the weight more and do less damage to the highways than trucks with only three axles.

(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 Hopkins County Fiscal Court submitted resolution to the cabinet requesting that this road segment be added to the extended weight coal haul road system.

TIERING: Was tiering applied? Yes.

LABOR CABINET
Department of Workplace Standards
Kentucky Occupational Safety and Health
(Proposed Amendment)

803 KAR 2:305. Adoption of 29 CFR Part 1910.66-.70.

RELATES TO: KRS Chapter 338, 29 CFR 1910

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 and regulations, and standards. Express authority to incorporate 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 1910.66-.70 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 incorporated by reference, as amended January 15, 1990, with the following additions, exceptions, and deletions:

(1) Revision to 29 CFR 1910.66, as published in the Federal Register, Volume 54, Number 144, July 28, 1989, is incorporated by reference.

(2) Revision to 29 CFR 1910.68(e)(3), "Manlifts," as published in the Federal Register, Volume 51, Number 188, September 29, 1986, is incorporated by reference.

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 12, 1990

FILED WITH LRC: January 15, 1990 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 21, 1990 at 2 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 16, 1990, 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 or Kembra Taylor

(1) Type and number of entities affected: Section 1(1) affects all building owners and employers in the Commonwealth with powered platform operations used for exterior and interior building maintenance.

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

1. First year: The cost of compliance with Section 1(1) will be approximately $24,000 to contractors. The savings to building owners will be approximately $56,000.

2. Continuing costs or savings: The cost of compliance with Section 1(1) will be approximately $24,000 annually to contractors. The savings to building owners will be approximately $56,000 annually.

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

are no additional factors regarding this amendment which will increase or decrease costs.

(b) Reporting and paperwork requirements: This amendment does not entail any reporting or paperwork requirements.

(2) Effects on the promulgating administrative body: This amendment will not affect the promulgating administrative body.

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: There will be no reporting or paperwork requirements as a result of this amendment.

(3) Assessment of anticipated effect on state and local revenues: This amendment has no anticipated effect on state and local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were considered, because the federal regulations contain specific methods for compliance.

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

(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. It 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(1) amendment requires Kentucky building owners and employers to comply with standards governing powered platforms used for exterior and interior building maintenance.

3. Minimum or uniform standards contained in the federal mandate. Section 1(1) amendment adopts all standards contained in the Federal Register, "Powered Platforms for Building Maintenance," Volume 54, Number 144, July 28, 1989.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This amendment is identical to the changes contained in the federal standards cited in item 3 above.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This amendment imposes no stricter, 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 X No___

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. Section 1(1) amendment affects all local government entities that are within the scope of the "Powered Platforms for Building Maintenance" standard.

3. State the aspect or service of local government to which this administrative regulation relates. The proposed amendment affects local government employees' occupational safety and health.

4. How does this administrative regulation affect the local government or any service it provides? The purpose of this amendment is to comply with federal OSHA regulations relating to "Powered Platforms for Building Maintenance" regarding occupational safety and health. There will be no increase or decrease in local government revenues or expenditures. This amendment will have no effect on the number of local government employees.

LABOR CABINET
Department of Workplace Standards
Kentucky Occupational Safety and Health
(Proposed Amendment)

803 KAR 2:309. Adoption of 29 CFR Part 1910.141-.149.

RELATES TO: KRS Chapter 338, 29 CFR 1910

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 and regulations, and standards. Express authority to incorporate 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 1910.141-.149 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 incorporated by reference, as amended January 15, 1990, with the following additions, exceptions, and deletions:

(1) 29 CFR 1910.141(c)(2)(i) shall read as follows: "Each water closet shall occupy a separate compartment with walls or partitions between fixtures sufficiently high to assure privacy."

(2) Amendment to 29 CFR 1910.145(f), "Accident Prevention Tags," as published in Federal Register, Volume 51, Number 182, September 19, 1986, is incorporated by reference.

(3) Revision to 29 CFR 1910.147, as published

in the Federal Register, Volume 54, Number 169, September 1, 1989, is incorporated by reference with the following additions, exceptions, and deletions:

(a) 29 CFR 1910.147(c)(2)(ii) is amended to read: "If an energy isolating device is capable of being locked out, the employer's energy control program under paragraph (c)(1) of this section shall utilize lockout."

(b) 29 CFR 1910.147(c)(3) is amended to read: "Full employee protection. (i) The tagout program will not provide a level of safety equivalent to that obtained by using a lockout program."

(c) 29 CFR 1910.147(d)(4)(iii)(A) is removed.

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 12, 1990

FILED WITH LRC: January 15, 1990 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 21, 1990 at 2 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 16, 1990, 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 or Kembra Taylor

(1) Type and number of entities affected: Section 1(3) affects all employers in the Commonwealth with operations concerning the control of hazardous energy (lockout/tagout).

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

1. First year: The cost of compliance with Section 1(3) will be approximately $4,280,000 (780,000 workers exposed).

2. Continuing costs or savings: Section 1(3) will result in an annual cost of $2,708,000 (780,000 workers exposed).

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors regarding this regulation which will increase or decrease costs.

(b) Reporting and paperwork requirements: This regulation will not entail any reporting or paperwork requirements.

(2) Effects on the promulgating administrative body: This regulation will not affect the promulgating administrative body.

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: There will be no reporting or paperwork requirements as a result of this regulation.

(3) Assessment of anticipated effect on state and local revenues: This regulation has no anticipated effect on state and local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were considered, because the federal regulations contain specific methods for compliance. The Commonwealth, different from federal OSHA, has elected to prohibit "tagout" procedures when "lockout" of machines is possible.

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

(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. It 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) regulation requires Kentucky employers to comply with federal standards governing the control of hazardous energy sources.

3. Minimum or uniform standards contained in the federal mandate. Section 1(3) regulation adopts all standards contained in the Federal Register, "Control of Hazardous Energy Source (Lockout/Tagout)," Volume 54, Number 169, September 1, 1989, with the exceptions contained in Section 1(3)(a), (b) and (c) of this regulation.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This will eliminate the optional use of tagout and the procedures required thereunder. This will not be stricter; the lockout is a simple procedure, whereas the optional use of tagout would require the employer to show that the tagout is as effective as lockout, imposing the additional duties of employee training, monitoring and communication. This option was found to be harder to enforce and easily misunderstood by industry. The Standards Board determined that

safety goals would be better met by deleting the tagout option allowed by the federal regulations.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Safety hazards would be better addressed, it will be easier for employers to understand and comply with, and enforcement will be easier.

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 X No___

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. Section 1(3) regulation affects all local government entities that are within the scope of "Control of Hazardous Energy (Lockout/Tagout)".

3. State the aspect or service of local government to which this administrative regulation relates. The proposed regulation affects local government employees' occupational safety and health.

4. How does this administrative regulation affect the local government or any service it provides? The purpose of this regulation is to comply with federal OSHA standards relating to control of hazardous energy sources (lockout/tagout). There will be no increase in local government revenues or expenditures. This regulation will have no effect on the number of employees of local government.

LABOR CABINET
Department of Workplace Standards
Kentucky Occupational Safety and Health
(Proposed Amendment)

803 KAR 2:418. Adoption of 29 CFR Part 1926.800-.804.

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 incorporate 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. The standards are arranged in numerical order in order to facilitate reference to 29 CFR 1926.

Section 1. The Occupational Safety and Health Standards Board hereby adopts Chapter 29, Part 1926.800-.804 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 incorporated by reference, as amended January 15, 1990, with the following additions, exceptions, and deletions:

(1) Revision of 29 CFR 1926.800, as published in the Federal Register, Volume 54, Number 105, June 2, 1989, is incorporated by reference.

(2) Revision of 29 CFR 1926.803(j)(3), as published in the Federal Register, Volume 51, Number 133, July 11, 1986 is incorporated by reference.

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 12, 1990
FILED WITH LRC: January 15, 1990 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 21, 1990 at 2 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 16, 1990, 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 or Kembra Taylor

(1) Type and number of entities affected: Section 1(1) affects all employers in the Commonwealth with operations concerning underground construction (tunnelling).

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

1. First year: The cost of compliance with Section 1(1) will be approximately $58,000 (160 workers exposed).

2. Continuing costs or savings: The cost of compliance with Section 1(1) will be approximately $58,000 (160 workers exposed).

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors regarding this amendment which will increase or decrease costs.

(b) Reporting and paperwork requirements: This amendment does not entail any reporting or paperwork requirements.

(2) Effects on the promulgating administrative body: This amendment will not affect the promulgating administrative body.

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: There will be no reporting or paperwork requirements as a result of this amendment.

(3) Assessment of anticipated effect on state and local revenues: This amendment has no anticipated effect on state and local revenues.
(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were considered, because the federal regulations contain specific methods for compliance.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no conflicting, overlapping, or duplicative administrative regulations or government policy.
(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. It 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(1) amendment requires Kentucky employers to comply with standards governing underground construction (tunnelling) operations.
3. Minimum or uniform standards contained in the federal mandate. Section 1(1) amendment adopts all standards contained in the Federal Register, "Underground Construction," Volume 54, Number 105, June 2, 1989.
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This amendment is identical to the changes contained in the federal standards cited in item 3 above.
5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This amendment imposes no stricter, 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_X_ No___
2. State whether this administrative regulation will affect the local government or only a part or division of the local government. Section 1(1) amendment affects all local government entities that are not within the scope of the "Underground Construction (Tunnelling)" standard.
3. State the aspect or service of local government to which this administrative regulation relates. The proposed amendment affects local government employees' occupational safety and health.
4. How does this administrative regulation affect the local government or any service it provides? The purpose of this amendment is to comply with federal OSHA regulations relating to "Underground Construction (tunnelling)" operations regarding occupational safety and health. There will be no increase or decrease in local government revenues or expenditures. This amendment will have no effect on the number of employees of local government.

PUBLIC PROTECTION & REGULATION CABINET
Harness Racing Commission
(Proposed Amendment)

811 KAR 1:105. Review and appeal.

RELATES TO: KRS 230.630(1), (3), 230.640, 230.720, 230.730
STATUTORY AUTHORITY: KRS 230.630(3), (4), (7)
NECESSITY AND FUNCTION: To regulate conditions under which harness racing shall be conducted in Kentucky. The function of this regulation is to regulate reviews and appeals of the commission and the Franklin Circuit Court.

Section 1. (1) If any person, licensee or association be aggrieved of any order or revocation, suspension, exclusion, ruling off, fine or other decision on ruling of the judges, such person, licensee by filing a written appeal with the commission not later than five (5) days after such ruling or decision is made. If a ruling is in regard to a violation that occurred during the race, the written appeal must be filed before the winnings are paid over. Appeals resulting from rulings at Fairs shall be filed within five (5) days of a ruling.
(2) An appeal shall be addressed to the commission at its principal office and shall:
(a) Set forth the decision or ruling of the judges complained of the date when same was rendered; and
(b) Request a specification of charges and review by the commission of the charges upon which the action of the judges is based.

Section 2. (1) If the chairman of the commission or deputy commissioner (supervisor of racing) has information that any licensee or other person has secured his license based on false or fraudulent statements or has violated any rules of the commission or the provisions of the Kentucky Revised Statutes, he shall have the authority to revoke or suspend the license of such licensee or other person; provided, however, that such licensee or other person may have a review of such action by filing a written appeal with the commission not later than ten (10) days after such action is taken.
(2) The appeal shall be addressed to the commission at its principal office and shall:
(a) Set forth the decision, ruling or action of the chairman or deputy commissioner (supervisor of racing) complained of and the date when same was rendered; and
(b) Request a specification of charges and review by the commission of the charges upon which the action of the chairman or deputy commissioner (supervisor of racing) was based.

Section 3. If the commission is of the opinion that any association, licensee or other person has violated any rules of the commission or the

provisions of the Kentucky Revised Statutes, it shall have the authority to issue a citation against such association, licensee or other person directing him to appear and show cause why his license should not be suspended or revoked or he not be ruled off or fined in an amount commensurate with the offense. Such citation shall contain the following:

(1) The rule or rules, or statute, alleged to have been violated and the time and place where such violation occurred;

(2) The acts committed by the offending party upon which said violations are based; and

(3) A full statement of charges preferred against the offending party.

Section 4. Notice of any commission hearing held under Sections 1, 2, and 3 of this regulation or in any other instance, shall be served upon the offending or aggrieved party by registered mail directed to the last known address of such party. Such notice shall be in writing, shall fix the time and place of hearing and shall be issued and mailed not less than five (5) nor more than thirty (30) days before the date of such hearing. The notice shall also include language to the effect that the offending or aggrieved party's failure to appear or be represented by counsel at the hearing without good cause may result in the hearing being conducted in absentia and acceptance of the judges' statement of facts as true, or may be taken as an admission of the specific charges and entry of a decision by default.

Section 5. If notice is issued under Section 1 of this regulation, the same shall also contain a specification of the charges upon which the ruling or decision of the judges was based; or if issued under Section 2 or 3 of this regulation, such notice shall set forth the information required thereunder.

Section 6. In all hearings before the commission, the chairman of the commission shall preside and shall determine the competence and order of the introductions of evidence. A hearing officer may be appointed by the chairman who shall cause a transcript of the testimony and his recommendations, to be filed with the commission for action by the commission. The aggrieved party shall have the right to appear in person and by counsel. At the conclusion of the hearing the commission shall take the case under advisement and shall, as promptly as may be reasonably possible, make known its decision, and should the order or decision of the judges, chairman of the commission or deputy commissioner (supervisor of racing) be sustained, the secretary of the commission (executive racing secretary) shall at once notify the aggrieved party of the commission's decision. In the event the commission finds that the aggrieved party was not guilty or any infraction or violation, the action of the judges shall be set aside and revoked, and the aggrieved party so notified.

Section 7. Should the offending or aggrieved party fail to appear or be represented by counsel at the hearing, after notice duly given and without good cause shown, the hearing may proceed in the absence of the offending or aggrieved party, and the chairman or hearing officer may take the statement of facts given by the judges as true, or may deem the failure to appear or be represented by counsel an admission of the specified charges and enter a decision against the offending or aggrieved party by default.

Section 8. [7.] Stay of Enforcement. In the event a penalty is imposed by the officials, the chairman of the commission, the commission or the deputy commissioner (supervisor of racing) or his assistants may grant a stay of the enforcement of such penalty until an appeal, if filed, is decided. In certain circumstances described in this section, the commission may grant a stay pending appeal to any person licensed by it who is affected by any decision of, or penalty imposed by an official or officials at a race meeting.

(1) Such a stay will be available in cases involving the loss of purse money of $500 or more, or a fine of $100 or more, or suspension of driving, or expulsion from the paddock or race track grounds of more than five (5) days, unless:

(a) In any case where licensee is alleged to have committed a flagrant violation of the prescribed rules of racing which presents a clear and present danger to the immediate integrity of racing; or

(b) Wherein it is impossible for the commission to secure necessary scientific evidence or indispensable witnesses within forty-eight (48) hours, then the commission or its hearing officer may refuse a request for the stay of any penalty imposed, as long as a hearing is held no later than thirty (30) days from the initial judges' determination of a violation.

(2) The stay will begin when the person appealing files a "notice of appeal" and requests a stay on a form provided by the commission and security of not less than $100, or as follows:

(a) A filing shall be made at the commission's office, Lexington, Kentucky, or with its representative at the operating track within forty-eight (48) hours after the decision or penalty from which the appeal is taken.

(b) The "notice of appeal" and "request for stay" shall be sworn to and shall state the grounds for appeal.

(c) The security is $100 unless the commission sets a higher security within forty-eight (48) hours of the filing. If a higher security is set, the stay will automatically terminate unless the excess over the $100 is posted within twenty-four (24) hours of the notice of the higher security and has been received by the person appealing.

(d) Failure to sustain the appeal may cause forfeiture of the security and if the costs of said appeal exceed the amount of the security, the additional costs shall be paid upon order of the commission.

(3) The commission reserves the right to hold as forfeit all or any part of the posted security if, in its considered opinion, the appeal was frivolous or without foundation.

Section 9. [8.] Witnesses for hearings may be subpoenaed by the chairman, vice chairman, deputy commissioner (supervisor of racing) or hearing officer.

Section 10. [9.] All actions of the commission may be appealed to the Franklin Circuit Court by an aggrieved party within thirty (30) days pursuant to the Rules of Civil Procedure. No injunction or restraining order shall issue pending said appeal.

WAYNE SHUMATE, Chairman
THEODORE T. COLLEY, Secretary
APPROVED BY AGENCY: December 1, 1989
FILED WITH LRC: January 9, 1990 at 11 a.m.
PUBLIC HEARING: A public hearing has been scheduled on this regulation on February 23, 1990, at 10 a.m. at the office of the Kentucky Harness Racing Commission. Anyone interested in attending this hearing, shall notify in writing Carl B. Larsen, Executive Director, Kentucky Harness Racing Commission, 4063 Iron Works Pike, Building B, Lexington, Kentucky, 40511, at least five days before the hearing.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Carl B. Larsen
(1) Type and number of entities affected: All persons licensed by the Kentucky Harness Racing Commission, in 1989, approximately 2500 persons.
(a) Direct and indirect costs or savings to those affected: There is no cost or savings to licensees, either direct or indirect.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: No additional reporting or paperwork would be required.
(2) Effects on the promulgating administrative body: The proposed amendment would give the commission a legal avenue to address licensees who fail to appear for hearings. Savings would result from only having a hearing one time. In some instances, court reporters, officials, hearing officer and attorney have had to be present for hearings two or three times without completing a hearing because of a licensee's failure to appear for a hearing. This amendment would eliminate holding a hearing more than one time, thus reducing court reporting costs, attorney fees, and travel time for hearing officer and officials. No additional paperwork required.
(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: No effect on state or local revenue.
(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were considered. This amendment conforms to hearing procedures used by courts for failure to appear for a hearing.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: This amendment does not conflict, overlap or duplicate any statute, administrative regulation or government policy now in place.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? Yes

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

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

RELATES TO: KRS 205.245
STATUTORY AUTHORITY: KRS 194.050
NECESSITY AND FUNCTION: The Cabinet for Human Resources is responsible under Title XVI of the Social Security Act as amended by Public Law 92-603 to administer a state funded program of supplementation to all December, 1973, recipients of aid to the aged, blind and disabled, hereinafter referred to as AABD, disadvantaged by the implementation of the Supplemental Security Income Program, hereinafter referred to as SSI. KRS 205.245 provides not only for the mandatory supplementation program but also for supplementation to other needy aged, blind and disabled persons. This regulation sets forth the provisions of the supplementation program.

Section 1. Mandatory State Supplementation. Mandatory state supplementation payments must be equal to the difference between the AABD payment for the month of December, 1973, plus any other income available to the recipient as of that month and the total of the SSI payment and other income. Also included are those former aged, blind or disabled recipients ineligible for SSI due to income but whose special needs entitled them to an AABD payment as of December, 1973. Mandatory payments must continue until such time as the needs of the recipient as recognized in December, 1973, have decreased or income has increased to the December level.
(1) The mandatory payment is increased only when income as recognized in December, 1973, decreases, the SSI payment is reduced but the recipient's circumstances are unchanged, or the standard of need utilized by the department in determining optional supplementation payments for a class of recipients is increased.
(2) In cases of man and wife, living together, income changes after September, 1974, will result in increased mandatory payment only if total income of the couple is less than December, 1973, total income.

Section 2. Optional State Supplementation. Optional state supplementation is available to those persons meeting technical requirements and resource limitations of the aged, blind or disabled medically needy program as contained in 907 KAR 1:011 and 907 KAR 1:004 (except as otherwise specified herein) who require special living arrangements and who have insufficient income to meet their need for care. Special living arrangements include residence in a personal care home as defined in 902 KAR 20:036 or family care home as defined in 902 KAR 20:041 or situations in which a caretaker must be hired to provide care other than room and board. A supplemental payment is not made to or on behalf of an otherwise eligible individual when the

caretaker service is provided by the spouse, parent (of an adult disabled child or a minor child), or adult child (of an aged or disabled parent) who is living with the otherwise eligible individual. When this circumstance exists and a person living outside the home is hired to provide caretaker services, the supplemental payment may be made. Application for SSI, if potential eligibility exists, is mandatory.

Section 3. Resources Considerations. In determining countable resources and the effect of resources on eligibility, the following policies are applied.

(1) The upper limit for resources for an individual and for a couple is set at $1,700 and $2,550, respectively, effective January 1, 1986; at $1,800 and $2,700, respectively, effective January 1, 1987; at $1,900 and $2,850, respectively, effective January 1, 1988; and at $2,000 and $3,000, respectively, effective January 1, 1989.

(2) Income producing property with a net equity of $6,000 or less is excluded.

(3) The first $4,500 of equity value in an automobile is excluded; if used for employment, to obtain medical services, or if specially equipped (e.g., as for use by the handicapped) there is no upper limit on value.

(4) Burial reserves (life insurance, prepaid burial policy, etc.) up to $1,500 are excluded. The face value of life insurance is considered when determining the total value of burial reserves if the face value of the life insurance is less than $1,500. Burial spaces are excluded from consideration when computing the value of burial reserves.

(5) A homestead, household items, and personal items are excluded.

(6) Resources determined in accordance with subsections (2), (3), and (4) of this section to be in excess of excluded amounts must be considered countable resources when determining whether the individual or couple exceeds the upper limits specified in subsection (1) of this section. If resources exceed the upper limits, the individual or couple is ineligible.

Section 4. Income Considerations. In determining the amount of optional supplementation payment, total net income of the applicant or recipient, or applicant or recipient and spouse, including any payments made to a third party in behalf of an applicant or recipient, is deducted from the standard of need with the following exceptions:

(1) Income of the ineligible spouse is conserved for the needs of the ineligible, non-SSI spouse and/or minor dependent children in the amount of one-half (1/2) of the SSI standard for an individual for each person adjusted by deduction of sixty-five (65) dollars and one-half (1/2) of the remainder from monthly earnings of spouse. Income of the eligible individual is not conserved for the needs of the ineligible spouse and/or minor dependent children. When conserving for the needs of the minor dependent children, income of the children must be appropriately considered so that the amount conserved does not exceed the allowable amount. When the eligible individual and spouse each have earnings, the earnings must be combined prior to the application of the earnings disregard of sixty-five (65) dollars and one-half (1/2) of the remainder.

(2) If one (1) member of a couple is institutionalized and the SSI spouse maintains a home, income in the amount of the SSI standard for one (1) is conserved for the spouse.

Section 5. Standard of Need. (1) The standard, based on living arrangement, from which income as computed in Section 4 of this regulation is deducted to determine the amount of optional payment is as follows:

(a) Personal care home: not less than $595 [568], effective 1/1/90 [1/1/89];

(b) Family care home: not less than $484 [462], effective 1/1/90 [1/1/89];

(c) Caretaker.

1. Single individual, or eligible individual with ineligible spouse (one who is not aged, blind, or disabled): not less than $417 [398], effective 1/1/90 [1/1/89];

2. Married couple, both eligible (aged, blind, or disabled), with one (1) requiring care: not less than $605 [578], effective 1/1/90 [1/1/89];

3. Married couple, both eligible and both requiring care: not less than $647 [618], effective 1/1/90 [1/1/89].

(2) In couple cases, both eligible, the couple's income is combined prior to comparison with the standard of need, and one-half (1/2) of the deficit is payable to each.

Section 6. Institutional Status. (1) No aged, blind or disabled person shall be eligible for state supplementation while residing in a personal care home or family care home unless such home is licensed under KRS 216B.010 to 216B.131.

(2) Institutional status and state supplementation benefits shall continue as required by Section 9115 of P.L. 100-203.

Section 7. Residency. (1) To be eligible, an applicant or recipient must be a citizen of the United States, or an alien legally admitted to this country or an alien who is residing in this country under color of law. An alien must have been admitted for permanent residence. The applicant or recipient must also be a resident of Kentucky. Generally, this means the individual must be residing in the state for other than a temporary purpose; however, there are exceptions with regard to applicants for or recipients of a state supplementary payment and institutionalized individuals. The residency criteria specified in federal regulations at 42 CFR 435.403 shall be applicable except as otherwise specified herein.

(2) Supplemental payments may be made to Kentucky residents residing outside the state only when the individual has been placed in the other state by this state. In these situations, the other requirements for eligibility shown in other sections of this regulation shall be applicable, except that with regard to the requirement shown in Section 6 of this regulation, the licensure shall be in accordance with a similar licensure act of the other state. If there is no similar licensure act in the other state, the payment may be made only if this state determines that, except for being in another state, the facility meets standards for licensure under the provisions of KRS 216B.010 to 216B.131. To be eligible for a supplemental payment while placed out-of-state the individual must require the level of care provided in the

out-of-state placement, there must be no suitable placement available in Kentucky, and the placement must be preauthorized by staff of the Department for Social Insurance.

(3) When determining residency, ability of the individual to indicate intent (to become a Kentucky resident) must be considered if the individual is institutionalized. The individual is considered incapable of indicating intent if:

(a) His/her I.Q. is forty-nine (49) or less or he/she has a mental age of seven (7) or less, based on tests acceptable to the department; or

(b) He/she is judged legally incompetent; or

(c) Medical documentation, or other documentation acceptable to the state, supports a finding that he/she is incapable of indicating intent.

(4) An individual is institutionalized if he/she is residing in a facility providing some services other than room and board. Personal care facilities are considered to be institutions.

(5) For any noninstitutionalized individual under age twenty-one (21) whose eligibility for a supplemental payment is based on blindness or disability, his/her state of residence is Kentucky if he/she is actually residing in the state.

(6) For any noninstitutionalized individual age twenty-one (21) or over, his/her state of residence is Kentucky if he/she is residing in the state and has the intention to remain permanently or for an indefinite period (or, if incapable of indicating intent, is simply residing in the state).

(7) For any institutionalized individual living in Kentucky who is under age twenty-one (21) or who is age twenty-one (21) or older and became incapable of indicating intent before age twenty-one (21), the state of residence is Kentucky if:

(a) The state of residence of the individual's parents, or his/her legal guardian if one has been appointed, is Kentucky; or

(b) The state of residence of the parent applying for the supplemental payment on behalf of the individual is Kentucky, when the other parent lives in another state and there is no appointed legal guardian.

(8) For any institutionalized individual living in Kentucky who became incapable of indicating intent at or after age twenty-one (21), the state of residence is Kentucky if he/she was living in Kentucky when he/she became incapable of indicating intent. If this cannot be determined, the state of residence is Kentucky unless he/she was living in another state when he/she was first determined to be incapable of indicating intent.

(9) For individuals subject to determinations of residency pursuant to subsections (7) and (8) of this section, the state of residency is Kentucky when the individual is residing in Kentucky, and a determination of residency applying those criteria does not show the individual to be a resident of another state.

(10) For an individual subject to a determination of residency pursuant to subsections (7) and (8) of this section, the state of residence is Kentucky when Kentucky and the state which would otherwise be the individual's state of residency have entered into an interstate residency agreement providing for reciprocal residency status; i.e., when a similarly situated individual in either state would by written agreement between the states be considered a resident of the state in which he is actually residing.

(11) For other institutionalized individuals (i.e., those individuals who are both age twenty-one (21) or over and capable of indicating intent), the state of residence is Kentucky if the individual is residing in Kentucky with the intention to remain permanently or for an indefinite period.

(12) Notwithstanding subsections (3) through (11) of this section, any individual placed by the cabinet in an institution in another state may, with appropriate preauthorization, be considered a resident of Kentucky, and any individual placed in an institution in Kentucky by another state shall not be considered a resident of Kentucky.

(13) An individual receiving a mandatory state supplemental payment from Kentucky shall be considered a resident of Kentucky so long as he/she continues to reside in Kentucky. An individual receiving a mandatory or optional supplemental payment from another state shall not be considered a resident of Kentucky.

(14) An individual eligible for and receiving a supplemental payment in October, 1979, shall be considered a Kentucky resident through July 4, 1984, even if he/she does not meet the residency requirements specified in this section, so long as such individual continues to reside in Kentucky and his/her receipt of supplementary payments has not since October, 1979 been interrupted by a period of ineligibility.

(15) Notwithstanding the preceding provisions of this section, a former Kentucky resident who becomes incapable of indicating intent while residing out of this state shall be considered a Kentucky resident if he/she returns to this state and he/she has a guardian, parent or spouse residing in this state. Such individual shall not be considered a Kentucky resident on the basis of this subsection whenever, subsequent to that time, he/she leaves this state to reside in another state except when the provisions of subsection (11) of this section are met. An individual leaving the state may, however, reestablish Kentucky residency by returning to the state if he has a guardian, parent or spouse residing in this state.

MIKE ROBINSON, Commissioner
HARRY J. COWHERD, Secretary
APPROVED BY AGENCY: December 14, 1989
FILED WITH LRC: December 18, 1989 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 21, 1990 at 9 a.m. at Department for Employment Services Conference Room, 2nd Floor, CHR Building. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1990, 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: James E. Randall, Director
(1) Type and number of entities affected: 6,450 recipients of state supplementation.
(a) Direct and indirect costs or savings to those affected: 1) Recipients in personal care homes receive a $27 increase per month. 2) Recipients in family care homes receive a $22 increase per month. 3) Recipients in caretaker situations receive the following increase: single individual - $19; couple (one requiring care) - $27; couple (both requiring care) - $29.
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: Increase in cost-of-living for state supplementation recipients.
1. First year: $245,600 cost, already anticipated in the state budget.
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 alternative method assessed; set forth through department policy.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? Yes

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 20 CFR 416.2095 and 20 CFR 416.2096.
2. State compliance standards. This amended regulation includes the 1990 cost-of-living increases, to place the state in compliance with federal SSI guidelines.
3. Minimum or uniform standards contained in the federal mandate. Maintain state supplementation payment and pass along cost-of-living increases.
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No
5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. None

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

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

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

Section 1. Definitions. Terms used in HEAP are defined as follows:
(1) "Principal residence" is the place where a person is living voluntarily and not on a temporary basis; the place he considers home; the place to which, when absent, he intends to return; and the place is identifiable from other residences, commercial establishments, or institutions.
(2) "Energy" means electricity, gas, and any other fuel that is used to sustain reasonable living conditions.
(3) "Household" means any individual or group of individuals who are living together in the principal residence as one (1) economic unit for whom residential energy is customarily purchased in common or who make undesignated payments for energy in the form of rent.
(4) "Economic unit" is one (1) or more persons sharing common living arrangements.
(5) "Subsidy component" is the portion of benefits reserved as energy assistance for heating.
(6) "Crisis component" is the component administered by local organizations under contract with the cabinet to provide heating crisis assistance.
(7) "Life threatening situation" under the crisis component means without heat or will be without heat within forty-eight (48) hours and temperatures at a dangerous level for household members.
(8) An "authorized representative" is the person applying on behalf of a household who presents to the cabinet or its representative a written statement signed by the appropriate household member authorizing that person to apply on the household's behalf.

Section 2. Application. Each household or authorized representative of the household requesting assistance shall complete an application and provide information necessary to determine eligibility and benefit amount. An application shall not be considered completed until all information needed to determine eligibility and benefit amount is received.

Section 3. Eligibility Criteria. (1) A

household shall meet the following conditions of eligibility for receipt of a HEAP payment under the subsidy and crisis components:

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

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

Income Scale

Family Size	Monthly	Yearly
1	$ 548	$ 6,578
	$ [529	$ 6,347]
2	735	8,822
	[709	8,503]
3	922	11,066
	[888	10,659]
4	1,109	13,310
	[1,068	12,815]
5	1,296	15,554
	[1,248	14,971]
6	1,483	17,798
	[1,427	17,127]

(c) For each household member more than six (6), the above income eligibility limitation for six (6) shall be increased by $187 [180] monthly or $2,244 [2,156] yearly.

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

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

(2) Households are eligible to receive benefits under the subsidy component once and under the crisis component not to exceed the maximum amount of benefits. The maximum amount of benefits from both components will not exceed $300.

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

(1) Payments to eligible households under the subsidy component shall be made for the full benefit amount based on type of energy for heating, monthly household income, and household size as follows:

Benefit Scales
Subsidy Component

Scale A.
Energy Sources: Electricity

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

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

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

Scale C.
Energy Sources: Coal, Wood

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

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

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

(4) In the crisis component the contracting agency may take into consideration household resources available for home heating in determining the minimum amount necessary to alleviate the crisis.

(5) In the crisis component the benefits for a household threatened with eviction whose heat is an undesignated portion of the rent, shall be for the energy portion of their rent which is defined as an amount up to the Standard Utility Allowance (SUA) in the Food Stamp Program as follows:

Household Size	SUA
1 and 2	$145
3	$151
4 or more	$166

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

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

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

(3) Payment under the subsidy II component is authorized by a one (1) party check made payable to the vendor or landlord if the heating is included as an undesignated portion of rent.

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

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

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

Section 7. Time Standards. Under the subsidy component, the cabinet shall make an eligibility determination promptly after receipt of a completed and signed application but not to exceed thirty (30) days. Under the crisis component, completed applications shall be processed so that the crisis is resolved within forty-eight (48) hours and in life threatening situations within eighteen (18) hours. Applicants under the crisis component shall have five (5) [ten (10)] working days from the date of application to provide information necessary to complete the application.

Section 8. Effective Dates. The following shall be the implementation and termination dates for HEAP depending upon the availability of funds:

(1)(a) Applications for the subsidy component shall be accepted from households containing at least one (1) member who is elderly (age sixty (60) or older) or receiving benefits due to 100 percent disability beginning October 16, 1989 [17, 1988] and ending by October 27, 1989 [28, 1988].

(b) Applications for the subsidy II component shall be accepted from households that were not eligible for subsidy I component beginning January 8, 1990, and ending by January 12, 1990, or until expenditures have resulted in utilization of available funds.

(2) Applications for the crisis component shall be accepted beginning January 15, 1990 [9, 1989] and ending by April 27, 1990, except in emergency situations where the household is without heat at the time of application. Applications for emergencies shall be accepted beginning December 18, 1989 [28, 1989].

(3) Applications shall be processed in the order taken until funds are expended. HEAP subsidy component shall be terminated when actual and projected component expenditures have resulted in utilization of available funds or October 27, 1989 [28, 1988].

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

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

(2) Up to $4,990,800 [9,677,341] of benefit funds shall be reserved for the crisis component. [Eighty-five (85) percent of] The funds reserved for the crisis component shall be allocated, by local administering agency, based upon the 1980 Census poverty levels of the counties served by the local administering agency. At any point after January 15, 1990 [Fifteen (15) percent of the funds plus any additional funds made available from the subsidy component or from the Energy Assistance Trust Fund shall be held by the contracting agency as a contingency fund to be allocated to any local administering agency of the state chosen at the discretion of the contracting agency to provide low income home energy assistance in accordance with its contract. On February 6, 1989,] all unobligated allocations may be reallocated by the contracting agency at the discretion [with the concurrence] of the Department for Social Insurance in order to assure crisis benefits availability on a statewide basis.

(3) Up to $10,400,000 [5,900,000] of benefit funds shall be reserved for the subsidy component. Any funds remaining unobligated from the subsidy component may be made available under the crisis component.

(4) An amount to be determined by the Department for Social Insurance shall be reserved from [Up to $300,000 of] the contingency fund under subsection (2) of this section [shall be reserved] to assure component availability until March 15, 1990 [1989] for emergency crisis assistance for households who are without heat.

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

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

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

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

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

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

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

MIKE ROBINSON, Commissioner
HARRY J. COWHERD, Secretary
APPROVED BY AGENCY: January 5, 1990
FILED WITH LRC: January 8, 1990 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 21, 1990 at 9 a.m. at the Department for Employment Services Conference Room, 2nd Floor West, Cabinet for Human Resources Building. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1990, 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: James E. Randall, Director

(1) Type and number of entities affected: This regulation is being amended to provide for the implementation and administration of the Home Energy Assistance Program (HEAP) in accordance with the federal fiscal year 1990 Low Income Home Energy Assistance Program (LIHEAP) Block Grant Application and Plan Narrative. HEAP shall have two components, subsidy and crisis. The subsidy component will have two phases which will be referred to as subsidy I and subsidy II. Subsidy I will provide home heating assistance for up to 49,400 low income elderly or disabled households and will be administered by the Department for Social Insurance. Subsidy II will provide home heating assistance for up to 49,500 low income households that did not receive assistance in subsidy I. The crisis component will provide home heating crisis assistance for up to 40,300 low income households experiencing a home heating crisis. The 23 local community action agencies shall locally administer the subsidy II and the crisis component.

(a) Direct and indirect costs or savings to those affected: Eligible households under the subsidy component shall receive to the extent funds remain available an average home heating payment, estimated based upon previous experience, of $105.26 per household. In the crisis component, a home heating crisis benefit of blankets, heaters, emergency fuel supplies, utility service, or heating system repairs shall be provided to eligible households to the extent funds remain available. The average value of crisis benefits per household is estimated at $123.82. Administrative funds of up to ten percent of the crisis benefits provided shall be made available to reimburse local community action agency reasonable and allowable administrative costs.

1. First year: A total of up to $15.7 million shall be available for benefits under HEAP. Up to $10.4 million shall be allocated for subsidy and up to $4.9 million for crisis. Up to $1.02 million shall be available to reimburse subsidy II and crisis component administrative costs.

2. Continuing costs or savings: The LIHEAP block grant application and plan narrative is submitted annually and is based upon the estimated federal appropriation level. There will not be any continuing costs or savings under the amendments being made to the regulation in accordance with the requirements of the current state plan.

3. Additional factors increasing or decreasing costs (note any effects upon competition): The Cabinet for Human Resources is not aware of any additional factors increasing or decreasing costs. This regulation has no effect on competition.

(b) Reporting and paperwork requirements: All HEAP applicants shall complete an application and provide materials to verify eligibility. The local subsidy II and crisis component administering agencies shall report services provided, submit invoices necessary for reimbursement and shall be subject to reporting and paperwork requirements necessary for appropriate administration of energy assistance programs including audits.

(2) Effects on the promulgating administrative body: The Department for Social Insurance shall be responsible for the overall administration of HEAP and shall administer directly the subsidy I component.

(a) Direct and indirect costs or savings: Up to 10 percent of the LIHEAP block grant allocation (including energy assistance trust funds appropriated to LIHEAP by the 1988 General Assembly) and not transferred to another block grant may be used for administration.

1. First year: Normal costs associated with administration of this program and contract management shall be incurred.

2. Continuing costs or savings: There will not be any continuing costs or savings under the current state plan.

3. Additional factors increasing or decreasing costs: The Department for Social Insurance is not aware of additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: Administrative requirements for grants under appropriate state and federal law and regulations shall be met. This includes maintenance of the state plan and regulation, revisions as necessary to manual and outreach material, computer system maintenance, annual reports, audits, and all such other usual and

normal administrative requirements for grants management.

(3) Assessment of anticipated effect on state and local revenues: The HEAP shall have little impact upon state or local revenues. Increased tax revenues will be generated from recipient expenditures for or receipt of energy assistance benefits. The expenditure for the state fiscal year 1990 energy assistance trust fund appropriation ($3.4 million) will reduce the amount of funds invested in the Trust Fund and thus reduce the amount of interest revenues earned by the Trust Fund.

(4) Assessment of alternative methods; reasons why alternatives were rejected: The regulation is being amended in accordance with the requirements of the federal fiscal year 1990 LIHEAP State Plan which was subject to substantial public review and comment, a legislative review and public hearing, and a Kentucky intergovernmental review through the Kentucky State Clearinghouse. As a block grant, LIHEAP provides flexibility within broad statutory guidelines. However, declining federal support, partially offset by an appropriation from the Kentucky Energy Assistance Trust Fund, limited alternatives since program criteria were already at a level to maximize the number of households assisted with the minimum amount necessary for a reasonable benefit. Various levels of funding for the two components were examined. Balancing a federal intent that funds be used for heating assistance with the need for adequate crisis assistance funding, the cabinet proposed the funding levels reflected in the state plan. The public review and comment supported the funding levels and agreed with continuing the restriction of subsidy component eligibility to the elderly and disabled as the most needy. However, the decision rendered in the Northern Kentucky Welfare Rights Association v. Wallace G. Wilkinson case opened up a subsidy II phase for eligible households not receiving assistance in the subsidy I.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No statute, administrative regulation or governmental policy is 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: No additional information or comment.

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_X_ No___

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. The regulation will affect cities which own and operate utilities for heating.

3. State the aspect or service of local government to which this administrative regulation relates. Municipal utilities.

4. How does this administrative regulation affect the local government or any service it provides? The provision of energy assistance benefits helps low income households pay for and maintain heat. Municipal utilities, and thus the cities, will benefit through reductions in the amount of payments in arrears and through helping households to maintain service.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Public Law 97-35 as amended (Title XXVI of the Omnibus Budget Reconciliation Act of 1981, as amended).

2. State compliance standards. This regulation specifies income eligibility at 110 percent of poverty. It also provides for local administration by community action agencies in the provision of heating crisis assistance.

3. Minimum or uniform standards contained in the federal mandate. The federal statute permits income eligibility to range between 110 percent and 150 percent of poverty. The statute requires that local administering agencies, which prior to enactment of the statute administered similar energy assistance programs be given priority for selection. The statute requires crisis assistance that is weather or supply related or other energy crisis.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The block grant concept permits states flexibility within broad guidelines contained in the statute. In order to target assistance to the most needy, the state has adopted the minimum income eligibility criteria permitted under the statute. Other criteria designed to target benefits to the most in need are a resources test of $5,000. To address amounts available for households in crisis assistance, household resources available for energy may be considered an for those households threatened with eviction, the benefit will not exceed the allowable benefit level of the food stamp program. The statute does not address benefit type or amount. This regulation sets the type and value of assistance at a level to provide a reasonable benefit to serve the maximum number of households with the available funds.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Due to the limited amount of funds and a need in excess of our ability to serve at the level of available funds, it is necessary to target assistance to those households most in need.

CABINET FOR HUMAN RESOURCES
Department for Medicaid Services
(Proposed Amendment)

907 KAR 1:040. Payments for vision care 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 vision care services.

Section 1. Definitions. For purposes of determination of payment the following definitions shall be applicable:

(1) "Usual and customary charge" means the uniform amount the individual optometrist or ophthalmic dispenser charges in the majority of cases for a specific covered procedure or service.

(2) "Allowable charges" are those charges computed on the basis of the provider's past charge history, determined on a statewide basis, and which do not exceed:

(a) The median charge for the service; or

(b) The 75th percentile (or 50th percentile for newly participating providers) charge for the service; or

(c) The Title XVIII-B (Medicare) prevailing charge for the service, determined on a statewide basis.

(3) The "median charge" is the arithmetic median of all billed charges for a given individual procedure billed by a given optometrist in a calendar year.

(4) The "75th percentile" or "50th percentile" is the charge that is equal to or greater than seventy-five (75) or fifty (50) percent of all charges, respectively, computed on the basis of all submitted charges for each procedure.

Section 2. [1.] Allowable Charge Determinations. (1) Except as provided for optometrists in subsection (2) of this section, reimbursement shall be made to optometrists and ophthalmic dispensers on the basis of usual, customary and allowable charges, except that reimbursement for materials is at the laboratory cost of the materials not to exceed upper limits as set by the cabinet.

(2) Effective with regard to services provided on and after December 1, 1989, payments for optometrists shall take into consideration the following: for new procedures being added, where there is no allowable charge determined in accordance with Section 1 of this regulation, the Department for Medicaid Services will set upper limits at the 50th percentile using physician usual and customary charge histories for those procedures having physician charge histories, and for other procedures with no physician charge histories will set fixed fees; payment will not exceed the lesser of the upper limit, fixed fee or the provider's usual and customary actual billed charge as applicable.

[Section 2. Definitions. For purposes of determination of payment the following definitions shall be applicable:]

[(1) "Usual and customary charge" means the uniform amount the individual optometrist or ophthalmic dispenser charges in the majority of cases for a specific covered procedure or service.]

[(2) "Allowable charges" are those charges computed on the basis of the provider's past charge history, determined on a statewide basis, and which do not exceed:]

[(a) The median charge for the service; or]

[(b) The 75th percentile (or 50th percentile for newly participating providers) charge for the service; or]

[(c) The Title XVIII-B (Medicare) prevailing charge for the service determined on a statewide basis.]

[(3) The "median charge" is the arithmetic median of all billed charges for a given individual procedure billed by a given optometrist in a calendar year.]

[(4) The "75th percentile" or "50th percentile" is the charge that is equal to or greater than seventy-five (75) or fifty (50) percent of all charges, respectively, computed on the basis of all submitted charges for each procedure.]

Section 3. Maximum Reimbursement for Covered Procedures and Materials for Optometrists.

(1) Reimbursement for covered services, except materials, is limited to the lowest of the following:

(a) The actual charge for the service rendered as submitted on the billing statement; or

(b) The allowable charge, as defined in Section 1 [2] of this regulation; or

(c) The fixed fee as specified in Section 2(2) of this regulation, as appropriate.

(2) Reimbursement for materials (eyeglasses [and/]or parts of eyeglasses) may be made at the laboratory cost of the materials not to exceed upper limits for materials as set by the cabinet. A laboratory invoice, or proof of actual acquisition cost of materials, shall [must] accompany the billing form.

Section 4. Maximum Reimbursement for Covered Procedures and Materials for Ophthalmic Dispensers. (1) Payment for covered services (a dispensing service fee or a repair service fee) rendered by licensed ophthalmic dispensers to eligible recipients is limited to the lowest of the following:

(a) The actual charge for the service rendered as submitted on the billing statement; or

(b) The allowable charge, as defined in Section 1 [2] of this regulation.

(2) Reimbursement for materials (eyeglasses [and/]or parts of eyeglasses) may be made at the laboratory cost of the materials not to exceed upper limits for materials as set by the cabinet. A laboratory invoice, or proof of actual acquisition cost of materials, shall [must] accompany the billing form.

Section 5. Reimbursement for other Supplies and Materials. Other supplies and materials such as cleaning fluid, cleaning cloth, carrying cases, etc., which are not eyeglasses or replacement/repair parts for eyeglasses, are considered to be provided in conjunction with and paid for as a part of the vision services rendered, and additional charges may not be made to the cabinet or the recipient for these items.

Section 6. Effect of Third Party Liability. When payment for a covered service is due and payable from a third party source, such as private insurance, or some other third party with a legal obligation to pay, the amount payable by the cabinet shall be reduced by the amount of the third party payment.

Section 7. Limitations. (1) Program reimbursement for eyeglasses shall [must] be inclusive. The cost of both laboratory materials and dispensing fees shall [must] be billed to either the program or the recipient. If any

portion of the amount is billed to or paid by the recipient, no responsibility for reimbursement shall attach to the cabinet and no bill for the service shall be paid by the cabinet. This limitation shall not, however, preclude the issuance of billings for the purpose of establishing the liability of, [and/]or collecting from, liable third parties.

(2) Telephone contacts are excluded from payment.

(3) Contact lenses are excluded from payment.

(4) Safety glasses are excluded from payment, unless the recipient is blind in one (1) eye and safety glasses are prescribed for protection.

ROY BUTLER, Commissioner
HARRY J. COWHERD, Secretary
APPROVED BY AGENCY: January 2, 1990
FILED WITH LRC: January 8, 1990 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 21, 1990 at 9 a.m. in the Department for Employment Services Conference Room, Second Floor West, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1990, 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 optometrists providing vision care services 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 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 amendment is a policy clarification and has no cost impact.

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, 1990

KENTUCKY HIGHER EDUCATION STUDENT LOAN CORPORATION

15 KAR 1:031. Repeal of 15 KAR 1:030.

RELATES TO: KRS 164A.060(4), (16), 164A.090, 164A.110
STATUTORY AUTHORITY: KRS 164A.060(8)
NECESSITY AND FUNCTION: The Kentucky Higher Education Student Loan Corporation is empowered to establish reserve funds, temporarily invest moneys received, and expend its funds to effectuate any and all public purposes of the corporation authorized by KRS 164A.010 to 164A.200. 15 KAR 1:030 established an administrative reserve fund, and requires a minimum reserve to be maintained at a level equal to the annual cost of servicing the corporation's student loan portfolio. The corporation finds it necessary to repeal this regulation to conform its reserve restriction to its projected administrative requirements and to enable the corporation to expend unneeded reserve funds to meet postsecondary educational needs of the Commonwealth.

Section 1. 15 KAR 1:030, Administrative Reserve Fund is repealed.

MICAH A. BEARD, Chairman
APPROVED BY AGENCY: December 7, 1989
FILED WITH LRC: January 12, 1990 at 4 p.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Tuesday, February 27, 1990 at 9 a.m. at 1050 U.S. 127 South, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 22, 1990, 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. Paul P. Borden, Kentucky Higher Education Student Loan Corporation, 1050 U.S. 127 South, Suite 102, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Paul P. Borden
(1) Type and number of entities affected: The Kentucky Higher Education Student Loan Corporation is the only entity affected.
(a) Direct and indirect costs or savings to those affected: The regulation does not affect costs or savings of any entity.
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: The regulation repeals self-imposed restrictions on the Administrative Reserve Fund.
(a) Direct and indirect costs or savings: No costs or savings are mandated by this regulation.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: The regulation has no affect on reporting and paperwork requirements.
(3) Assessment of anticipated effect on state and local revenues: The regulation has no effect on either state or local revenue.
(4) Assessment of alternative methods; reasons why alternatives were rejected: There is no feasible alternative method.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: This regulation does not conflict with, overlap, or duplicate any statute, administrative regulation or government policy.
(a) Necessity of proposed regulation if in conflict: There is no conflict.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no conflict.
(6) Any additional information or comments:
TIERING: Was tiering applied? No. The concept of tiering is not applicable to any conceivable consequences of this regulation.

GENERAL GOVERNMENT CABINET
Kentucky Board of Pharmacy

201 KAR 2:074. Pharmacy services in hospitals.

RELATES TO: KRS Chapters 217, 315
STATUTORY AUTHORITY: KRS 217.015(5), (6), (9), (23), (24), 217.215(1), (2), 217.992, 315.010, 315.020, 315.030, 315.121, 315.191(1)
NECESSITY AND FUNCTION: The Kentucky Board of Pharmacy is responsible to insure minimum standards of practice in all settings where drugs are handled. The board is also responsible to insure the safety of all drug products provided to the citizens of the Commonwealth.

Section 1. For the purpose of this regulation, the following definitions apply:
(1) "Institutional pharmacy" means that portion of an acute care hospital licensed under 902 KAR 2:016 which is engaged in the manufacture, production, sale and distribution of drugs, medications, devices and other materials used in the diagnosis and treatment of injury, illness, and disease.
(2) "Investigational drug" means any drug which has not been approved for use in the United States, but for which an investigational drug application has been approved by the FDA.
(3) "Unit dose distribution" means a system in which drug therapy profiles are maintained in the pharmacy and doses are scheduled, prepared, and delivered in a ready-to-administer form to the patient care area as they are needed.

Section 2. Pharmacy Administration. (1) General. The pharmacy, organized as a separate

department or service, shall be directed by a professionally competent, legally qualified pharmacist. He shall employ an adequate number of appropriately trained, competent, and qualified personnel. The director of pharmacy services is responsible for departmental management and the development and implementation of goals and objectives to meet the needs of the institution.

(2) Director of pharmacy.

(a) The director of pharmacy services shall be thoroughly knowledgeable about hospital pharmacy practice, while possessing necessary management skills.

(b) Where the director of pharmacy is not employed full time, the hospital shall establish an ongoing arrangement in writing with an appropriately qualified pharmacist to provide the services described herein. The director of pharmacy shall be responsible to the chief executive officer of the hospital or his designee.

(c) When the hospital pharmacy is decentralized, each decentralized section or separate organizational element shall be under the immediate supervision of a pharmacist responsible to the director.

(3) Pharmacy personnel.

(a) The Department of Pharmacy Services shall employ additional pharmacists, either full time or part time, as they are required to operate safely and effectively to meet the needs of the patients.

(b) If nonpharmacist personnel are employed, they shall perform all duties under the supervision of a pharmacist and they shall not be assigned, nor shall they perform, duties that are to be performed only by pharmacists.

(4) Responsibilities.

(a) Lines of authority and areas of responsibility within the pharmacy shall be clearly defined. Written job descriptions for all categories of pharmacy personnel shall be prepared and revised as necessary.

(b) There shall be policies and procedures to provide for selection of drugs as well as a distribution system to serve the needs of the patient. Provision for procurement of drugs in an emergency situation shall be provided for.

(5) Supportive personnel.

(a) Sufficient supportive personnel (technical, clerical, and other) shall be available in order to optimize the participation of pharmacists in activities requiring professional judgment.

(b) The training and supervision of supportive personnel shall be the responsibility of the pharmacist.

(6) Availability.

(a) The services of a pharmacist shall be available at all times. However, where around-the-clock operation of the pharmacy is not feasible, the pharmacist shall be available on an on-call basis and an adequate night drug cabinet shall be established. The pharmacy itself shall not be designated as the night drug cabinet.

(b) Hospitals not having a full-time pharmacist, but in which drugs are prepackaged or relabeled or transferred from one container to another, shall obtain a pharmacy permit and have at least a part-time pharmacist designated to perform those functions or to provide personal supervision of those functions.

Section 3. Physical Facility. (1) The Department of Pharmacy Services shall have adequate space, equipment, and supplies sufficient to provide for safe and efficient drug storage, preparation and distribution, patient education and consultation, drug information services, and proper management of the department.

(2) Legal requirements. The physical facility shall meet state and federal regulations and shall be accessible by key by authorized pharmacy personnel only.

(3) Location. Locked storage or locked medication carts shall be provided for use in each nursing unit or service area.

(4) Reference materials. The pharmacy shall have current pharmaceutical reference materials in accordance with state regulations. References related to the following subjects shall also be available:

(a) Drug identification;
(b) Toxicology;
(c) Drug interactions;
(d) Parenteral drug compatibility;
(e) Microbiology.

Section 4. Drug Distribution and Control. (1) General. The Department of Pharmacy Services shall be responsible for the procurement, distribution and control of all drugs and parenteral solutions used within the institution. Policies and procedures governing these functions shall be developed by the pharmacist with input from other involved hospital staff (e.g., nurses) and committees (e.g., pharmacy and therapeutics committee and patient care committee).

(2) Dispensing. The pharmacist shall dispense medications only on the order of a licensed practitioner.

(3) Prescriber's order. The pharmacist shall review the medication order within twenty-four (24) hours of administration.

(4) Recordkeeping. The pharmacist shall maintain appropriate records of each medication order. The records shall be retained for the time and in the manner prescribed by state and federal law.

(5) Patient medication profile. A medication profile shall be maintained for all inpatients and for those ambulatory patients routinely receiving care at the institution. The pharmacist shall utilize this profile to properly review, schedule, prepare, and distribute medications except in emergency situations.

(6) Labeling and packaging.

(a) The department shall establish policies and procedures regarding specific labeling and packaging requirements for medications. Drug products shall bear adequate identification including, but not limited to, the name or names of the drug, the strength or potency, route(s) of administration where appropriate, expiration date (and time, if appropriate), control or lot number, and other special instructions as may be indicated. Hospitals in which bulk reconstitution of injectables is performed shall maintain control records containing at least this information for a period of one (1) year.

(b) Labeling and packaging of medications used for outpatients shall meet the requirements of state and federal law.

(7) Dispensing. The pharmacist shall dispense medications in a form as ready to administer as

the current status of pharmaceutical technology permits. This includes, but is not limited to, the reconstitution of injectables, solutions, and the use of unit dose distribution where feasible.

(8) Stop orders. There shall be established written stop order policies or other methods of assuring that drug orders are not continued inappropriately in accordance with the status of the patient.

(9) Administration. Drugs shall be administered only upon order of a licensed practitioner. The department shall participate in the establishment of policies and procedures regarding the administration of medications. Specific procedures shall be developed regarding, but not limited to, personnel authorized to schedule, prepare and administer medications. All administered, refused or omitted doses of medication shall be recorded on the patient's medical record according to established procedures.

(10) Unused medication. The department shall establish policies and procedures for the disposition of patients' unused medications. Medication in unit dose form may be reissued if package integrity has been maintained and the product is still in date.

(11) Stocks. Floor stocks of drugs shall be kept as small as possible and limited to drugs for emergency use and routinely used "safe" items such as mouthwash and antiseptic solutions. All drug storage areas within the hospital shall be routinely inspected by pharmacy personnel at least monthly and documentation maintained to insure that no unusable items are present and that all stock items are properly labeled and stored.

(12) Drug recall. There shall be a system for removing from use any drugs subjected to a recall.

(13) Sample medications. The department shall establish policies and procedures regarding medical representatives and the obtaining, storage, and dispensing of complimentary packages of medications.

(14) Emergency drugs. The department shall establish policies and procedures for supplying emergency drugs. For expediency and efficiency, emergency drugs shall be limited in number to include only those whose prompt use and immediate availability are generally regarded by physicians as essential in the proper treatment of sudden and unforeseen patient emergencies. Emergency stocks shall be routinely inspected by pharmacy personnel on a monthly basis and documentation maintained to determine if contents have become outdated and if the stocks are being maintained at adequate levels.

(15) Investigational drugs. Policies and procedures controlling the use of investigational drugs (if used in the institution) shall be developed and followed. The pharmacy shall be responsible for storing, packaging, labeling, distributing, maintaining inventory records (including lot numbers and expiration date) and providing information about investigational drugs (including proper disposal).

(16) Controlled substances.

(a) The director of pharmacy shall establish effective procedures and maintain adequate records regarding the use and accountability of controlled substances, in compliance with state and federal laws and regulations.

(b) Complete, accurate, and current records shall be kept of receipt of all controlled substances and, in addition, a Schedule II perpetual inventory shall be maintained.

(c) The pharmacy shall maintain records of all controlled substances issued from the pharmacy to other hospital units, which include:

1. Date;
2. Name of drug;
3. Amount of drug issued;
4. Name or initials of the pharmacist who issued the drug; and
5. Name of the patient and unit to which the drug was issued.

(d) Records shall be maintained by any unit of the hospital which utilizes scheduled drugs, indicating:

1. Date of administration;
2. Time of administration;
3. Name of the drug (if not already indicated on the records);
4. Dosage of drug which was used including both the amount administered and any amount destroyed;
5. Name of the patient to whom the drug was administered;
6. Name of the practitioner who authorized the drug; and
7. Signature of the licensed individual who administered the drug.

(e) Use of multiple dose vials of controlled substances shall be discouraged.

(f) Controlled substances, Schedules II and III, which are floor stocked in any hospital patient or nursing service area shall be kept under double lock and be checked by actual count at the change of each shift by two (2) authorized persons licensed to administer drugs.

(g) When it is necessary to destroy small amounts of controlled substances following the administration of a dose by a nurse, the destruction shall be witnessed by a second nurse who shall countersign the records of destruction.

Section 5. Assuring Rational Drug Therapy. (1) Appropriate clinical information about patients shall be available and acceptable to the pharmacist for use in his daily practice activities.

(2) The pharmacist shall be a member of the pharmacy and therapeutics committee and any other committees where input concerning the use of drugs is required.

(3) The pharmacist shall provide a means to insure that patients receive adequate information about the drugs they receive. This is particularly important for ambulant and discharge patients. Patient education activities shall be in coordination with the nursing and medical staffs and patient education department, if any.

Section 6. Penalty. Violation of any provision of this regulation constitutes unethical or unprofessional conduct in accordance with KRS 315.121.

RALPH G. DEITEMEYER, President

APPROVED BY AGENCY: January 10, 1990

FILED WITH LRC: January 11, 1990 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 21, 1990 at 3 p.m. EST at the Office of the Kentucky Board of Pharmacy, 1228 U.S. 127 South, Frankfort, Kentucky. Individuals

interested in attending this hearing shall notify this agency in writing by February 16, 1990, 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 with to attend the public hearing, you may submit written comments on the proposed amendments to the administrative regulation. Send written notification of intent to attend the public hearing or to provide written comments on the proposed administrative regulation to: Richard L. Ross, Executive Director, Kentucky Board of Pharmacy, 1228 U.S. 127 South, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Richard L. Ross, R.Ph.
(1) Type and number of entities affected: 121 licensed hospital pharmacies in the Commonwealth.
(a) Direct and indirect costs or savings to those affected: Allows for uniform procedures at all licensed acute care hospital pharmacies.
1. First year: There would be no projected costs or savings.
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition): Same requirements for all licensed acute care hospital pharmacies and no effect on competition.
(b) Reporting and paperwork requirements: No projected paperwork requirements not already reported.
(2) Effects on the promulgating administrative body: Evaluation by pharmacy drug inspectors regulations more uniformly applied.
(a) Direct and indirect costs or savings: No increase in permit fee.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: Recordkeeping and inspections remain the same.
(3) Assessment of anticipated effect on state and local revenues: No anticipated effect on revenues.
(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternatives apparent.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No conflict, overlapping, or duplication noted.
(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: Would require minimum standards of pharmacy services in all acute care hospital pharmacies.
TIERING: Was tiering applied? Yes.

GENERAL GOVERNMENT CABINET
Kentucky Board of Pharmacy

201 KAR 2:076. Parenteral pharmaceutical compounding.

RELATES TO: KRS 217.055, 315.020
STATUTORY AUTHORITY: KRS 217.055, 315.020(1), (2), 315.065(1), (2), 315.191(1)
NECESSITY AND FUNCTION: The Kentucky Board of Pharmacy is responsible to insure minimum standards of practice of parenteral compounding by pharmacies. The board is also responsible to insure the safety of all products provided to the citizens of the Commonwealth.

Section 1. A policy and procedure manual for parenteral pharmaceutical compounding shall be available at a pharmacy for inspection purposes. The manual shall include policies and procedures for:
(1) Oncology drugs;
(2) Disposal of unused supplies and medications;
(3) Drug destruction and return;
(4) Drug dispensing;
(5) Drug labeling;
(6) Storage;
(7) Duties and qualifications for staff;
(8) Equipment;
(9) Handling of hazardous wastes;
(10) Investigation drug protocol;
(11) Safety;
(12) Recordkeeping;
(13) Reference material;
(14) Sanitation;
(15) Security;
(16) Transportation; and
(17) Quality assurance, as relates to:
(a) Recall procedures;
(b) Storage and dating;
(c) Educational procedures for staff and patient;
(d) Sterile procedures, to include routine maintenance and hood certification; and, if necessary,
(e) Sterile testing of end products, operator procedures, and environment.
The manual shall be reviewed and revised on an annual basis.

Section 2. The following physical requirements are in addition to other requirements set forth in KRS 217.055 and 315:020:
(1) The licensed pharmacy shall have a designated area for preparing compounded parenteral pharmaceuticals. This area shall be designed to withstand routine disinfecting procedures and shall be kept free of particulate generators, e.g., corrugated cardboard containers. This area shall be designed to avoid unnecessary traffic and airflow disturbances. It shall be used only for the preparation of sterile products. It shall be of sufficient size to accommodate a laminar airflow hood and to provide for the proper storage of drugs and supplies under appropriate conditions of temperature, light, moisture, sanitation, ventilation, and security.
(2) The minimum equipment shall be:
(a) Laminar airflow hood or Class 100 clean room;
(b) Sink with hot and cold running water which is convenient to the compounding area;
(c) Appropriate disposal containers for used

needles, syringes, and if applicable, cytotoxic and hazardous wastes from preparation of said agents;

(d) A Class II vertical flow biological safety cabinet, if oncology agents are prepared;

(e) Refrigerator or freezer with a thermometer; and

(f) A temperature controlled delivery container (not required if delivered in the same facility).

(3) The minimum supplies shall be:

(a) Disposable needles, syringes, and other supplies needed for aseptic parenteral compounding;

(b) Disinfectant cleaning solutions;

(c) Handwashing agent with bactericidal action;

(d) Disposable, lint-free towels or equivalent;

(e) Appropriate filters and filtration equipment;

(f) Oncology drug spill kit; and

(g) Disposable gowns, and sterile disposable gloves.

(4) This area of the pharmacy shall not be accessible to the public and no one shall have access without supervision of the pharmacist.

(5) The pharmacy shall have current reference materials related to sterile products.

Section 3. Each licensed pharmacy shall be managed by a pharmacist licensed to practice pharmacy in the Commonwealth and who is knowledgeable in the specialized functions of preparing and dispensing compounded, sterile pharmaceuticals, including the principles of aseptic technique and quality assurance. The pharmacist in charge shall be responsible for the purchasing, storage, compounding, repackaging, dispensing, and distribution of all drugs and pharmaceuticals. The pharmacist shall also be responsible for the development and continuing review of all policies and procedures, training manuals, and the quality assurance programs, as well as participation in those aspects of the facility's patient care evaluation program relating to pharmaceutical material utilization and effectiveness. The pharmacist in charge may be assisted by additional personnel adequately trained in this area of practice. A pharmacist shall be accessible at all times at each licensed facility to respond to patients' and other health professionals' questions and needs.

Section 4. (1) The pharmacist shall receive a written or verbal prescription or direct copy order from a prescriber before dispensing any compounded, sterile parenteral product. These prescriptions or direct copy orders shall contain the following:

(a) Patient's name;

(b) Patient's address on controlled substances prescriptions or location (room number);

(c) Drug name and strength;

(d) Directions for use;

(e) Date;

(f) Authorized prescriber's name;

(g) Prescriber's address and DEA number, if applicable;

(h) Refill instructions, if applicable; and

(i) Dispensing quantity, if applicable.

(2) A pharmacy generated profile shall be maintained separate from the prescription file. The patient profile shall be maintained under the control of the pharmacist in charge for a period of five (5) years following the last dispensing activity. In addition, a medication administration record (MAR) as part of the medical record shall be maintained as a permanent document. Supplemental records may also be employed as necessary. The patient profile shall contain:

(a) Patient's name;

(b) Sterile product dispensed;

(c) Date dispensed;

(d) Drug content and quantity;

(e) Patient's directions;

(f) Identification of compounder;

(g) Identification of dispensing pharmacist;

(h) Identifying number; and

(i) Lot number (if batch production).

(3) Each sterile pharmaceutical dispensed to patients shall be labeled with the following information:

(a) Name, address, and telephone number of the licensed pharmacy, if product will leave the premises;

(b) Date;

(c) Identifying number;

(d) Patient's full name;

(e) Name of each drug, strength, and amount;

(f) Directions for use, including infusion rate;

(g) Required controlled substances transfer warnings, where applicable;

(h) Expiration date;

(i) Identity of dispensing pharmacist;

(j) Storage requirements; and

(k) Auxiliary labels.

(4) The pharmacist in charge shall maintain access to and submit, as appropriate, such records and reports as are required to insure the patient's health, safety, and welfare. Records shall be readily available, maintained for five (5) years, and subject to inspection by the Board of Pharmacy or its agents. These shall include the following:

(a) Patient profile;

(b) Purchase records;

(c) Biennial controlled substances inventories;

(d) Policy and procedures manual;

(e) Policies and procedures for cytotoxic wastes, if applicable;

(f) Quality assurance records; and

(g) Such other records and reports as may be required by law and rules and regulations of the Kentucky Board of Pharmacy.

Information regarding individual patients shall be maintained in a manner to assure confidentiality of the patient's records. Release of this information shall be in accordance with federal and state laws.

(5) The pharmacist in charge shall be responsible for the environmental control of all products shipped. Any compounded, sterile pharmaceutical that is frozen or requires refrigeration shall be shipped or delivered to a patient in appropriate temperature controlled delivery containers, if the product leaves the premises.

(6) The pharmacist in charge shall be responsible for assuring that there is a system for the disposal of hazardous waste in a manner that does not endanger the public health.

Section 5. Licensed pharmacies that prepare oncology agents shall meet the following additional requirements in order to insure the protection of the personnel involved:

(1) All oncology agents shall be compounded in a vertical flow, Class II, biological safety

cabinet, and other products shall not be compounded in this cabinet;

(2) Protective apparel shall be worn by personnel compounding oncology drugs, and this shall include disposable gloves and gowns;

(3) Proper aseptic and safety techniques shall be used by personnel compounding oncology agents;

(4) Appropriate disposable procedures for cytotoxic waste shall be developed that comply with applicable state and federal regulations;

(5) Written procedures for handling both major and minor spills of cytotoxic agents shall be developed; and

(6) Prepared doses of oncology drugs shall be dispensed, shipped, or delivered in a manner to minimize the risk of accidental rupture of the primary container and labeled with a distinctive cautionary label as being hazardous.

Section 6. There shall be a documented, ongoing quality control program that monitors personnel performance, equipment, and facilities. Quality assurance procedures, at a minimum, shall include:

(1) Recall procedures;

(2) Storage and dating;

(3) Educational procedures for staff;

(4) Sterile procedures;

(5) Hood or clean room annual certification by an independent contractor in accordance with federal standard 209B and NSF standard No. 49;

(6) Prefilter cleaning and replacement when appropriate;

(7) Justification of the chosen expiration dates for compounded parenteral products; and

(8) Documentation of quality assurance audits at regular, planned intervals, including infection control and sterile technique audits.

Section 7. Violation of any provision of this regulation shall constitute unethical or unprofessional conduct in accordance with KRS 315.121.

RALPH G. DEITEMEYER, President

APPROVED BY AGENCY: January 10, 1990

FILED WITH LRC: January 11, 1990 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 21, 1990 at 3 p.m. at the Office of the Kentucky Board of Pharmacy, 1228 U.S. 127 South, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1990, 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 with to attend the public hearing, you may submit written comments on the proposed amendments to the administrative regulation. Send written notification of intent to attend the public hearing or to provide written comments on the proposed administrative regulation to: Richard L. Ross, Executive Director, Kentucky Board of Pharmacy, 1228 U.S. 127 South, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Richard L. Ross

(1) Type and number of entities affected: Only those pharmacies providing parenteral prep. compounding.

(a) Direct and indirect costs or savings to those affected: No additional costs or savings to those pharmacies providing this pharm. service.

1. First year: No costs or savings contemplated.

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

3. Additional factors increasing or decreasing costs (note any effects upon competition): No effect on competition providing this pharm. service.

(b) Reporting and paperwork requirements: No additional reporting or paperwork requirements.

(2) Effects on the promulgating administrative body: No effect on the Kentucky Board of Pharmacy - would require all pharmacies providing this service to meet minimum requirements for uniform protection of all patients receiving this pharm. service.

(a) Direct and indirect costs or savings: No direct or indirect costs or savings.

1. First year: No costs or savings contemplated.

2. Continuing costs or savings: No costs or savings contemplated.

3. Additional factors increasing or decreasing costs: No additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: No additional reporting or paperwork requirements.

(3) Assessment of anticipated effect on state and local revenues: No anticipated effect on state and local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Only alternative is not requiring minimum standards.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No statute or regulation is in conflict, overlapping, or duplicated by this regulation.

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: This regulation is needed to assure all citizens receiving parenteral compounded pharmaceuticals that the same minimum requirements are being met by all providers.

TIERING: Was tiering applied? Yes.

GENERAL GOVERNMENT CABINET
Kentucky Board of Pharmacy

201 KAR 2:106. Pharmacy, manufacturer, or distributor closures.

RELATES TO: KRS 315.035, 315.036

STATUTORY AUTHORITY: KRS 315.036, 315.191(1)

NECESSITY AND FUNCTION: Closure by permittees of the Kentucky Board of Pharmacy shall be responsibly effected in accordance with all federal, state, and applicable laws in the interest of public welfare.

Section 1. Definitions. As used in this regulation:

(1) "Permanent closure" means the licensee ceases to do business and permanently closes;

(2) "Voluntary closure" means any closing or abandonment of premises resulting from chronic mental or physical deterioration or for any reason other than involuntary, that constitutes a deviation from those business hours listed on the current permit application or amendments filed thereto.

(3) "Involuntary closure" means an interruption of formal business activity resulting from acute illness or incapacitation, death, fire, flood or other natural disaster; bankruptcy proceedings, court, government, or Board of Pharmacy action.

Section 2. Procedures for Closure. (1) Permanent closure.

(a) The licensee shall conspicuously place a sign notifying the public thirty (30) days in advance of the termination date of business and the name and address of the licensee to which prescription files or other pertinent records shall be transferred. Except when prevented by the exercise of another party's legal rights, the sign shall remain in place for a period of thirty (30) days after such closure and all efforts shall be undertaken to assure a smooth transition of uninterrupted service to all affected by the closure.

(b) The licensee shall inform the Board of Pharmacy and Drug Enforcement Administration ("DEA") by written notice fifteen (15) days prior to the anticipated closing and include the following information:

1. Date of business termination;

2. Name, address, and DEA number of registrant to whom the prescription or controlled drugs are to be transferred. In the absence of directives to the contrary from DEA or the Board of Pharmacy, the transfer may be effected on the assigned date. The transferor and the transferee shall each maintain appropriate copies of the transferred controlled substances (Schedule II Order Forms; Schedules III, IV, and V Invoices) for a period of at least two (2) years.

3. Upon termination, the licensee shall remove all signs pertinent to pharmacy or drugs from the building and premises and return the voided permits, DEA registration, and unused Schedule II Order Forms to be their respective office of issue.

(2) Voluntary closure.

(a) Any pharmacy or distributor licensed by the Kentucky Board of Pharmacy whose hours of operation have deviated over a period of five (5) consecutive working days from those of record at the Board of Pharmacy office shall immediately notify the board, verbally and in writing, stating the reason for the deviation and the anticipated period of continuance.

(b) Upon receipt of such notice, the Board of Pharmacy, with full cooperation of the licensee, shall make such arrangements as it deems necessary to provide adequate and continued security and control of all drugs, chemicals, poisons, and devices owned or controlled by the licensee.

(c) If normal operation cannot resume within sixty (60) days, or if satisfactory agreements cannot be reached between the Board of Pharmacy, the licensee, or his designated representative, the permit shall be revoked, and the Board of Pharmacy shall assume control and responsibility of any drug, chemical, or device deemed necessary and in any such manner deemed appropriate.

(d) If the Board of Pharmacy or its agents liquidate or arrange for the liquidation of said stock, the board may retain a portion of the proceeds realized from the liquidation equal to those expenses incurred.

(3) Involuntary closure.

(a) The licensee, or next responsible person employed by or related to the licensee, shall within five (5) days provide notice to the Board of Pharmacy office. He shall offer a guarantee of acceptable safety and control of the licensed premises that will allow continued storage of those privileged substances consigned to Board of Pharmacy permittees for up to sixty (60) days beyond the effective date of the involuntary closure. During this time, arrangements for the lawful sale or other disposition of all drugs and substances requiring Board of Pharmacy licensure shall be effected. If the sixty (60) day grace period lapses without a sale or other disposition having been effected by the designated party, or if a satisfactory agreement cannot be reached between the Board of Pharmacy, the licensee, or his designated representative, the Board of Pharmacy shall assume control and responsibility of all substances it deems necessary for appropriate disposition.

(b) The licensee or designated agent shall fully cooperate with the Board of Pharmacy to promote the efficient administration of such action and shall be financially liable to the board should this administration incur expenses by the board.

RALPH G. DEITEMEYER, President

APPROVED BY AGENCY: January 10, 1990

FILED WITH LRC: January 11, 1990 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 21, 1990 at 3 p.m. at the Office of the Kentucky Board of Pharmacy, 1228 U.S. 127 South, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1990, 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 with to attend the public hearing, you may submit written comments on the proposed amendments to the administrative regulation. Send written notification of intent to attend the public hearing or to provide written comments on the proposed administrative regulation to: Richard L. Ross, Executive Director, Kentucky Board of Pharmacy, 1228 U.S. 127 South, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Richard L. Ross

(1) Type and number of entities affected: All licensed pharmacies, manufacturers, and distributors.

(a) Direct and indirect costs or savings to those affected: No cost to licensee unless board

incurs expenses for administration if necessary to liquidate.
1. First year: Same as (a).
2. Continuing costs or savings: Same as (a).
3. Additional factors increasing or decreasing costs (note any effects upon competition): No effect upon competition.
(b) Reporting and paperwork requirements: Proper notification mailed to board office of disposition of drugs remaining when closing.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: Reduction in annual renewal license fee.
1. First year: Same as (1)(a).
2. Continuing costs or savings: Same as (1)(a).
3. Additional factors increasing or decreasing costs: Same as (1)(a).
(b) Reporting and paperwork requirements: No additional reporting or paperwork except removal from license roles.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: Drugs in closed pharmacies were subject to burglary and out-of-date merchandise.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: None
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: No conflict.
(6) Any additional information or comments:
TIERING: Was tiering applied? No. All applicants must abide only if choosing to close.

GENERAL GOVERNMENT CABINET
Kentucky Board of Pharmacy

201 KAR 2:116. Drug products with bioinequivalence problems.

RELATES TO: KRS 217.819
STATUTORY AUTHORITY: KRS 217.814(7), (8), 217.819(1)
NECESSITY AND FUNCTION: KRS 217.819 directs the Kentucky Board of Pharmacy to prepare a nonequivalent drug product formulary of drugs which should not be interchanged by pharmacists. This regulation lists drug products with active ingredients or dosage forms with potential bioequivalence problems, drugs characteristically possessing a narrow therapeutic index, or categories of agents for which there is either documented evidence of inequivalent thereapeutic effect or a potential for it based on differences in bioavailability.

Section 1. The following have been determined by the board to be noninterchangeable:
(1) Digitalis glycosides (all dosage forms):
(a) Digoxin; and
(b) Digitoxin.
(2) Antiepileptic drugs (all dosage forms):
(a) Phenytoin;
(b) Primidone; and
(c) Carbamazephine.
(3) Antiarrhythmic agents (all dosage forms):
(a) Quinidine; and
(b) Procainamide.
(4) Estrogens (all dosage forms):
(a) Conjugated; and
(b) Esterified.
(5) Warfarin anticoagulants (all dosage forms).
(6) Theophylline products (all dosage forms).
(7) Thyroid preparations:
(a) Thyroglobulin, whole grain thyroid;
(b) Levothyroxine; and
(c) Leothyronine.

RALPH G. DEITEMEYER, President
APPROVED BY AGENCY: January 10, 1990
FILED WITH LRC: January 11, 1990 at 10 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 21, 1990 at 3 p.m. at the Office of the Kentucky Board of Pharmacy, 1228 U.S. 127 South, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1990, 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 with to attend the public hearing, you may submit written comments on the proposed amendments to the administrative regulation. Send written notification of intent to attend the public hearing or to provide written comments on the proposed administrative regulation to: Richard L. Ross, Executive Director, Kentucky Board of Pharmacy, 1228 U.S. 127 South, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Richard L. Ross
(1) Type and number of entities affected: All patients currently taking these categories of drugs.
(a) Direct and indirect costs or savings to those affected: Direct cost to patients who would not be switched to generic versions of the innovator drug.
1. First year: Physicians generally have not allowed for substitution of the categories of drugs.
2. Continuing costs or savings: Same as first year.
3. Additional factors increasing or decreasing costs (note any effects upon competition): Factors causing the narrow therapeutic index concern limited substitution by physicians.
(b) Reporting and paperwork requirements: Would not require the physician to identify "Do Not Substitute" on these prescriptions.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: No additional monitoring by PDI required. (PDI - Pharmacy and Drug Inspector).
1. First year: No costs or savings for monitoring compliance.
2. Continuing costs or savings: No costs or savings for monitoring compliance.
3. Additional factors increasing or decreasing costs: Pharmacists would not be required to include identification of substituted drug on the prescription copy.
(b) Reporting and paperwork requirements: Same as (a)3.

(3) Assessment of anticipated effect on state and local revenues: Physicians generally do not allow for these drugs to be substituted and should have little impact on additional revenue.
(4) Assessment of alternative methods; reasons why alternatives were rejected: Alternative method of allowing substitution is not in the best interest of patients here in Kentucky.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no 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: No conflict.
(6) Any additional information or comments:
TIERING: Was tiering applied? No. Substitution would not be allowed on any drug product with bioinequivalence problems. However, the physician or patient may obtain other forms of drug products by having the physician write a prescription for a specific drug product.

GENERAL GOVERNMENT CABINET
Board of Chiropractic Examiners

201 KAR 21:006. Repeal of 201 KAR 21:005.

RELATES TO: KRS 312.019
STATUTORY AUTHORITY: KRS 312.019
NECESSITY AND FUNCTION: KRS 13A.222 provides that definitions appearing in the Kentucky Revised Statutes shall not be duplicated in an administrative regulation. Definitions of the terms stated in Section 1 of 201 KAR 21:005 appear in KRS 312.015. It is redundant to define the term "licensee" as has been done in Section 2.

Section 1. 201 KAR 21:005, Definitions, is hereby repealed.

HAROLD BYERS, D.C., President
APPROVED BY AGENCY: January 12, 1990
FILED WITH LRC: January 15, 1990 at noon
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 21, 1990 at 1 p.m. (EST), at the Office of the Attorney General, Suite 18, Capitol Building, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1990, 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: Conley C. Congleton, Assistant Attorney General, Suite 18, Capitol Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Beverley White
(1) Type and number of entities affected: State Board and Kentucky licensees.
(a) Direct and indirect costs or savings to those affected:
1. First year: Not remarkable.
2. Continuing costs or savings: Not remarkable.
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: Not remarkable.
(2) Effects on the promulgating administrative body: Not remarkable.
(a) Direct and indirect costs or savings:
1. First year: Not remarkable.
2. Continuing costs or savings: Not remarkable.
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: Not remarkable.
(3) Assessment of anticipated effect on state and local revenues: Not remarkable.
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. Regulations pertain to all D.C.s.

NATURAL RESOURCES & ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 40:060. County enforcement representative.

RELATES TO: KRS 68.178, 109.042, 224.005 through 224.210, 224.830 through 224.888, 224.994
STATUTORY AUTHORITY: KRS Chapter 13A, 109.042, 224.033, 224.886
NECESSITY AND FUNCTION: KRS 109.042 requires the cabinet to promulgate administrative regulations for local government inspection of sanitary landfills and enforcement procedures. This regulation establishes the minimum requirements for appointment as a county enforcement representative, establishes standards for compliance monitoring of solid waste management facilities, and establishes reporting requirements.

Section 1. Position Requirements. When a county or urban county government elects to employ a county enforcement representative under the provisions of KRS 109.042, the individual employed in the position shall, at a minimum, meet the following requirements:
(1) The representative shall be a graduate of a college or university with a bachelors degree including fifteen (15) semester equivalent hours in the physical or biological sciences. Professional experience in environmental control may substitute for the educational requirements on a year-for-year basis.

(2) The individual appointed to the position of county enforcement representative shall within one (1) year of appointment complete the manager portion of the Kentucky Landfill Operator Certification Program and successfully complete the certified landfill manager test as outlined in 401 KAR 47:070.

Section 2. Inspection Requirements. (1) The county enforcement representative shall conduct inspections or investigations of sanitary landfills in a manner that is reasonable and necessary. The county enforcement representative shall obtain information and evidence with which to determine the compliance of sanitary landfills with the provisions of KRS Chapter 224, 401 KAR Chapters 47 and 48, terms and conditions of a permit and any order of the secretary, relating to sanitary landfills. Inspections shall be conducted in accordance with procedures approved by the cabinet using forms approved by the cabinet.

(2) The county enforcement representative upon presentation of proper identification and authority may:

(a) Enter any permitted sanitary landfill in the county, to inspect the premises and gather evidence on existing conditions and procedures;

(b) Obtain from any permitted landfill in the county, representative samples of waste or any material believed to be polluting or contaminating the environment;

(c) Conduct tests, analyses and evaluations to determine compliance with the requirements of KRS Chapter 224, 401 KAR Chapters 47 and 48, terms and conditions of a permit and any order of the secretary;

(d) Obtain samples of any containers and photographs or facsimiles of container labels;

(e) Inspect and copy any pertinent records, reports, information or test results relating to the requirements of KRS Chapter 224 and 401 KAR Chapters 47 and 48, terms and conditions of the permit and any order of the secretary; and

(f) Question any person found on the premises, including but not limited to employees or agents of the owner, operator or agency in charge of the premises, concerning their duties, responsibilities, past activities or any other matter relating to the requirements of KRS Chapter 224 and 401 KAR Chapters 47 through 49.

(3) In the event that any samples are obtained prior to leaving the premises, a receipt describing the samples obtained shall be given to the owner, operator, or agency in charge and, if requested, a portion of each such sample equal in volume or weight to the portion retained. A copy of the results shall be furnished to the owner, operator or agency in charge if an analysis is made.

Section 3. Timing and Conduct of Inspections. (1) The county enforcement representative shall have unrestricted right of entry and access to all parts of any permitted sanitary landfill in the county for any purpose associated with their proper duties pursuant to 401 KAR Chapters 47 and 48.

(2) Presentation of credentials. The county enforcement representative shall present credentials for identification purposes upon request by a representative of the owner or operator.

(3) The county enforcement representative shall not be required by the cabinet or the owner or operator of a sanitary landfill to schedule inspections or to give prior notice that an inspection shall be conducted.

(4) The county enforcement representative shall only be authorized to inspect sanitary landfills inside the boundaries of the county or urban county government that elected to implement KRS 109.042.

Section 4. Reporting Requirements. (1) A report listing any deficiencies found during the inspection shall be prepared by the inspector and shall be kept on file in the county. A copy of the inspection report shall be provided to the owner or operator or his agent immediately upon completion of the inspection.

(2) The county enforcement representatives shall make and maintain written records of inspections or investigations including observations made and factual matters discovered. A copy of such record shall be made available to the owner or operator and shall be available for public inspection.

(3) The county enforcement representative shall notify the cabinet of any noncompliances with the requirements of KRS Chapter 224 and 401 KAR Chapters 47 and 48, the terms and conditions of the permit, and any order of the secretary upon completion of the inspection. The notification shall be by submittal of an inspection report to the cabinet including documentation of the deficiency(ies) noted. The cabinet shall respond to the county enforcement representative concerning the deficiency report within three (3) working days of receipt. When such response is by telephone, it shall be followed up by a written reply.

FRANK DICKERSON, Commissioner
CARL H. BRADLEY, Secretary
APPROVED BY AGENCY: January 9, 1990
FILED WITH LRC: January 15, 1990 at 9 a.m.

PUBLIC HEARING: A public hearing to receive comments on this proposed regulation will be conducted February 22, 1990 at 10 a.m. (EDT), in the first floor auditorium of the New State Office Building, High and Clinton Streets, Frankfort, Kentucky. Persons interested in attending this public hearing shall notify in writing at least five days prior to the hearing: David W. Morgan, Division of Waste Management, Frankfort Office Park, 18 Reilly Road, Frankfort, Kentucky 40601. Persons wishing to submit written comments without attending the hearing may do so, if the written comments are received in the Frankfort office of the Department for Environmental Protection by 4:30 p.m.(EDT) on February 22, 1990.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Susan C. Bush, Director

(1) Type and number of entities affected: The proposed administrative regulation potentially affects every county in the Commonwealth that has a permitted sanitary landfill located within its boundaries. For those counties electing to employ a county enforcement representative under the provisions of KRS 109.042 (enforcement representative requirements) and KRS 68.178 (financing for county enforcement representative), the proposed regulation will have a direct impact on the landfill and all residential, commercial and industrial customers utilizing the facility.

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

1. First year: When a county or urban county government elects to employ a county enforcement representative by imposing a license fee on a sanitary landfill located within the county, they may experience a direct savings by utilizing funds derived from the license fee to defray costs associated with the provision of governmental services to the landfill. In counties or urban county governments that elect to impose a license fee on a sanitary landfill located in that county, the landfill and the residential, commercial and industrial customers utilizing the facility will incur a direct cost associated with the imposition of the licensing fee. The license fee may be set at not less than one cent but no more than fifty cents per ton of waste received by the landfill or set at up to 5 percent of gross receipts of the landfill. The license fee as set may be increased by an amount up to 1/4 of the base fee per ton or on gross receipts for wastes received from outside the planning area. Since this fee may be assessed in varying amounts, the exact cost to the landfill and the customers utilizing the facility will vary from county to county based on what they elect to charge. In lieu of establishing the fee system, counties may accept payments from the permitted disposal facility under a duly-executed contract.

2. Continuing costs or savings: The costs and savings from employing a county enforcement representative as explained above will be continual. Substantial variations will occur only if the amount of waste received at the facility or the cost for disposal of the waste received greatly increases or decreases.

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors which will increase or decrease costs.

(b) Reporting and paperwork requirements: The county enforcement representative must notify the cabinet of any noncompliance with the requirements of KRS Chapter 224, 401 KAR Chapter 47 and 48, the terms and conditions of the permit and any order of the secretary upon completion of the inspection.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The cost the promulgating administrative body will incur will vary depending on the number of counties that elect to employ a county enforcement representative. The promulgating body's cost will be related mainly to the additional staff time required to provide technical assistance to the county enforcement representative and to respond to any deficiencies that are observed by the county enforcement representative during his inspection of the sanitary landfill.

2. Continuing costs or savings: The cost to the promulgating administrative body as described above will be continual.

3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: The promulgating administrative body is required to respond to any deficiencies noted during the county enforcement representative's inspection of the landfill within 72 working hours of receipt of the inspection report.

(3) Assessment of anticipated effect on state and local revenues: The effect of this regulation on state revenues will be minimal. In counties where a county enforcement representative is employed, 5 percent of the license fee shall be remitted to the Natural Resources and Environmental Protection Cabinet annually until July 30, 1990. After July 30, 1990, there will be no effect on state revenues from promulgation of this regulation. In counties electing to employ a county enforcement representative, the effect on local revenues will vary depending on the source and volume of waste received at the landfill, the unit cost for disposal and the rate at which the license fee is set. Additionally, all counties in the planning area that are served by the landfill shall receive 10 percent of the license fee annually for local solid waste planning and plan implementation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Alternative: 1. Less stringent: KRS 109.042 and 68.178 established the standards for employing and financing a county enforcement representative; therefore, less stringent alternatives were not considered.

2. More stringent: KRS 109.042 and 68.178 established the standards for employing and financing a county enforcement representative; therefore, more stringent alternatives were not considered.

3. Present proposal: KRS 109.042 and 68.178 established the standards for employing and financing a county enforcement representative. The purpose of this regulation is to outline the specific qualifications of a county enforcement representative and the standards for local inspection of a sanitary landfill and to establish reporting requirements for violations noted.

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

(a) Necessity of proposed regulation if in conflict: There is no conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no conflict.

(6) Any additional information or comments: There is no additional information or comments.

TIERING: Was tiering applied? Yes. This regulation applies only to counties with a sanitary landfill located within their boundaries.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. There is no federal statute or regulation constituting a federal mandate.

2. State compliance standards. The proposed administrative regulation establishes the minimum qualifications and sets the inspection and reporting requirements for a county enforcement representative employed under the provisions of KRS 109.042.

3. Minimum or uniform standards contained in the federal mandate. The proposed administrative regulation is not based on a federal mandate.

4. Will this administrative regulation impose

stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? There is no federal statute or regulation constituting a federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. There is no federal statute or regulation constituting a federal mandate.

NATURAL RESOURCES & ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 47:030. Environmental performance standards.

RELATES TO: KRS 224.005 through 224.110, 224.830 through 224.888, 224.994

STATUTORY AUTHORITY: KRS Chapter 13A, 224.033, 224.842

NECESSITY AND FUNCTION: KRS Chapter 224 requires the cabinet to adopt rules and regulations for the treatment, storage, recycling and disposal of solid wastes. KRS 224.842 requires that persons engaging in the treatment, storage, recycling and disposal of solid waste obtain a permit. This chapter establishes the permitting standards for solid waste sites or facilities, the standards applicable to all solid waste sites or facilities, and the standards for certification of operators. An overview of the permit program is found in Section 1 of 401 KAR 47:080. This regulation sets forth the minimum environmental standards with which all solid waste sites or facilities shall comply.

Section 1. Purpose, Scope and Applicability. The standards in this regulation are for use under the waste management provisions of KRS Chapter 224 in determining which solid waste sites or facilities pose a reasonable probability of adverse effects on human health or the environment. Solid waste sites or facilities failing to satisfy the requirements of this regulation shall be considered open dumps which are prohibited by KRS 224.835. No owner or operator shall cause, suffer, or allow a solid waste site or facility or any unit of a solid waste site or facility to violate any provision of this regulation.

Section 2. Floodplains. No solid waste site or facility shall restrict the flow of the 100 year flood, reduce the temporary water storage capacity of the flood plain, or be placed in a manner likely to result in washout of waste, so as to pose a hazard to human health, wildlife, or land or water resources.

Section 3. Endangered Species. No solid waste site or facility shall:

(1) Cause or contribute to the taking of any endangered or threatened species of plants, fish, wildlife; or

(2) Result in the destruction or adverse modification of the critical habitat of endangered or threatened species as identified in the Endangered Species Act of 1973 and subsequent regulations.

Section 4. Surface Waters. No solid waste site or facility shall:

(1) Cause a discharge of pollutants into waters of the Commonwealth, including wetlands, that violates any requirements of KRS Chapter 224, including but not limited to the Kentucky Pollutant Discharge Elimination System;

(2) Cause a discharge of dredged material or fill material to waters of the Commonwealth that is in violation of the requirements under Section 404 of the Clean Water Act, as amended; or

(3) Cause the discharge of nonpoint source pollution to waters of the Commonwealth, including wetlands, that violates any requirements of an areawide or statewide water quality management plan that has been approved by the cabinet.

Section 5. Groundwater. No solid waste site or facility shall contaminate groundwater beyond the waste boundary in excess of the maximum contaminant levels contained in Section 6 of this regulation.

Section 6. Maximum Groundwater Contaminant Levels. The maximum contaminant levels of this section are for use in determining whether solid waste site or facility activities comply with the groundwater criteria of Section 5 of this regulation. Only analytical methods for these contaminants that are approved by the cabinet shall be used. No solid waste site or facility shall contaminate an aquifer beyond the maximum contaminant levels established in this section.

(1) Maximum contaminant levels for inorganic chemicals. No solid waste site or facility shall contaminate an aquifer beyond the maximum contaminant levels established herein.

(a) The following are the maximum levels of inorganic chemicals other than fluoride:

Contaminant	Maximum Level[1] (milligrams per liter)
Arsenic	0.05 mg/l
Barium	1.0 mg/l
Cadmium	0.01 mg/l
Chromium	0.05 mg/l
Lead	0.05 mg/l
Mercury	0.002 mg/l
Nitrate (as N)	10.0 mg/l
Selenium	0.01 mg/l
Silver	0.05 mg/l

[1]Metal criteria are total recoverable metals to be measured in an unfiltered sample.

(b) The maximum contaminant levels for fluoride are:

Temperature[1] Degrees Fahrenheit	Degrees Celsius	Maximum Level
53.7 and below	12 and below	2.4 mg/l
53.8 to 58.3	12.1 to 14.6	2.2 mg/l
58.4 to 63.8	14.7 to 17.6	2.0 mg/l
63.9 to 70.6	17.7 to 21.4	1.8 mg/l
70.7 to 79.2	21.5 to 26.2	1.6 mg/l
79.3 to 90.5	26.3 to 32.5	1.4 mg/l

[1]Annual average of the maximum daily air temperature.

(2) Maximum contaminant levels for organic chemicals. The following are the maximum contaminant levels for organic chemicals other than volatile synthetic organic chemicals:

	Maximum Level
(a) Chlorinated hydrocarbons:	
Endrin (1,2,3,4,10,10-Hexachloro-6, 7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-1,4-endo-endo-5,8-dimethano-naphthalene)	0.0002 mg/l
Lindane (1,2,3,4,5,6-Hexachlorocyclo hexane, gamma isomer)	0.004 mg/l
Methoxychlor (1,1,1-Trichloro-2,2-bis (p-methoxyphenyl) ethane)	0.1 mg/l
Toxaphene ($C_{10}H_{10}C_{18}$-Technical chlorinated camphene, 67 to 69 percent chlorine)	0.005 mg/l
(b) Chlorophenoxys:	
2,4-D (2,4-Dichlorophenoxyacetic acid)	0.1 mg/l
2,4,5-TP Silvex (2,4,5-Trichloro-phenoxypropionic acid)	0.001 mg/l

(3) Maximum contaminant levels for radioactivity. The following are the maximum contaminant levels for radionuclides:

Radionuclides	Maximum Level
Gross alpha particles	15 picocuries per liter
Radium	5 picocuries per liter
Gross beta particles	50 picocuries per liter
Strontium 90	8 picocuries per liter
Tritium	20,000 picocuries per liter
Iodine 131	3 picocuries per liter

(4) Maximum contaminant levels for volatile synthetic organic chemicals. The following are the maximum contaminant levels for volatile synthetic organic chemicals:

Chemicals	Maximum Level (milligrams per liter)
Benzene	0.005
Carbon tetrachloride	0.005
1,2-Dichloroethane	0.005
Trichloroethylene	0.005
para-Dichlorobenzene	0.075
1,1-Dichloroethylene	0.007
1,1,1-Trichloroethane	0.2
Vinyl chloride	0.002

(5) Maximum microbiological contaminant levels. The maximum contaminant level for coliform bacteria from any one (1) well shall be:

(a) Using the membrane filter technique:

1. One (1) coliform bacterium per 100 milliliters if one (1) sample is taken; or

2. One (1) coliform bacterium per 100 milliliters in more than one (1) sample of all the samples analyzed in one (1) month; or

(b) Using the five (5) tube most probable number procedure (the fermentation tube method) in accordance with the analytical procedures approved by the cabinet, and using a standard sample, each portion being one-fifth (1/5) of the sample:

1. If the standard portion is ten (10) milliliters, coliform in any five (5) consecutive samples from a well shall not be present in three (3) or more of the twenty-five (25) portions; or

2. If the standard portion is 100 milliliters, coliform in any five (5) consecutive samples from a well shall not be present in five (5) portions in any of five (5) samples or in more than fifteen (15) of the twenty-five (25) portions.

Section 7. Application to Land Use for the Production of Food Chain Crops. No solid waste site or facility shall exist or occur which applies solid waste within three (3) feet of the surface of land used for the production of food chain crops unless in compliance with all the requirements of subsection (1) or (2) of this section:

(1)(a) The pH of the solid waste and soil mixture is six and five-tenths (6.5) or greater at the time of each solid waste application, except for solid waste containing cadmium at concentrations of two (2) mg/kg (dry weight) or less;

(b) The annual application of cadmium from solid waste does not exceed 0.44 pounds per acre on land used for production of tobacco or food chain crops. The annual cadmium application rate does not exceed 0.44 pounds per acre; and

(c) The maximum cumulative application of cadmium from the waste does not exceed the levels in Table 1 of this paragraph.

Table 1

Maximum cumulative application

Soil Cation Exchange Capacity (meq/100g)	Background Soil pH	Pounds/per/Acre
<5	≥6.5	4.46
5-15	≥6.5	8.92
>15	≥6.5	17.84
>15	<6.5*	4.46

*For soils with a background pH of less than six and five-tenths (6.5), the maximum cumulative cadmium applications rate for soils with a background pH equal to or greater than six and five-tenths (6.5) may be used if the pH of the sludge-soil mixture is adjusted to and maintained at six and five-tenths (6.5) or greater whenever food chain crops are grown.

(2) If animal feed is the only food chain crop produced, there is no limit to the cadmium application rate, as long as the pH of sludge and soil mixture is six and five-tenths (6.5) or greater at the time of sludge application or at the time the crop is planted, whichever occurs later, and this pH level is maintained whenever food chain crops are grown. A plan shall also be developed which demonstrates how the animal feed shall be distributed to preclude human ingestion, and the measures to be taken to safeguard against possible health hazards from cadmium entering the food chain, which may result from alternative land uses. Future property owners shall also be notified by a stipulation in the land record or property deed

which states that the property received sludge at high cadmium application rates and that food chain crops, except for animal feed, shall not be grown due to possible health hazards.

Section 8. Polychlorinated Biphenyls. No solid waste site or facility shall exist or occur which places solid waste containing concentrations of polychlorinated biphenyls (PCBs) equal to or greater than one (1) mg/kg (dry weight) on the land. However, residual landfills may dispose of PCBs in accordance with their permit and contained landfills may dispose of solid wastes containing PCBs equal to forty-nine (49) mg/kg (dry weight) or less.

Section 9. Disease. (1) Disease vectors. No solid waste site or facility shall exist or occur unless the on-site population of disease vectors is prevented or controlled through the periodic application of cover material or other techniques as appropriate to protect human health and the environment.

(2) Sewage sludge and septic tank pumpings. No solid waste site or facility shall exist or occur which applies sewage sludge or septic tank pumpings within three (3) feet of the surface of the land unless a method to reduce pathogens has been utilized.

Section 10. Air. (1) No solid waste site or facility shall engage in open burning of solid waste or hazardous wastes. This requirement does not apply to infrequent burning of agricultural wastes in the field, silvicultural wastes for forest management purposes, land-clearing debris, diseased trees, debris from emergency cleanup operations, or ordinance.

(2) No solid waste site or facility shall violate applicable air pollution requirements contained in KRS Chapter 224 or 401 KAR Chapters 50 through 63.

Section 11. Safety. (1) Explosive gases. No solid waste site or facility shall allow the concentration of explosive gases generated by the facility to exceed:

(a) Twenty-five (25) percent of the lower explosive limit for the gases in facility structures (excluding gas control or recovery system components); and

(b) The lower explosive limit for the gases at the facility property boundary.

(2) Fires. No solid waste site or facility shall pose a hazard to the safety of persons or property from fires. This may be accomplished through compliance with Sections 9 and 10 of this regulation, through the periodic application of cover material or other techniques as appropriate.

(3) Access. No solid waste site or facility shall allow uncontrolled public access, unauthorized vehicular traffic, or illegal dumping of wastes. This requirement to ensure protection of human health and the environment may be met by using artificial barriers, natural barriers, or other methods as appropriate.

Section 12. Public Nuisance. No solid waste site or facility shall result in a public nuisance because of blowing litter, debris, or other waste or material.

Section 13. Wetlands. No solid waste site or facility shall be located in wetlands.

Section 14. Compliance. No solid waste site or facility shall violate any requirement of KRS Chapter 224 or any regulation promulgated under the authority of KRS Chapter 224.

Section 15. 401 KAR 30:030, entitled Environmental performance standards, is hereby repealed.

FRANK DICKERSON, Commissioner
CARL H. BRADLEY, Secretary
APPROVED BY AGENCY: January 9, 1990
FILED WITH LRC: January 15, 1990 at 9 a.m.

PUBLIC HEARING: A public hearing to receive comments on this proposed regulation will be conducted February 22, 1990 at 10 a.m. (EDT), in the first floor auditorium of the New State Office Building, High and Clinton Streets, Frankfort, Kentucky. Persons interested in attending this public hearing shall notify in writing at least five days prior to the hearing: David W. Morgan, Division of Waste Management, Frankfort Office Park, 18 Reilly Road, Frankfort, Kentucky 40601. Persons wishing to submit written comments without attending the hearing may do so, if the written comments are received in the Frankfort office of the Department for Environmental Protection by 4:30 p.m.(EDT) on February 22, 1990.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Susan C. Bush, Director

(1) Type and number of entities affected: The environmental performance standards will affect all sites or facilities engaging in the treatment, storage, recycling and disposal of solid waste. The number of solid waste sites or facilities this proposed regulation will effect cannot be determined. An inventory of sites, such as waste piles, junk yards, surface impoundments, saw dust piles and others does not exist. There are approximately 80 existing landfills and 63 landfarming sites.

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

1. First year: Many existing landfills were not designed to prevent the release of the 8 volatile organic constituents into the environment. Some of the 8 constituents can be found in household hazardous waste and soil from petroleum spills. Some of the existing facilities have accepted waste containing these constituents. This could influence the number of sites that may require corrective action. The addition of the 8 volatile organic constituents would increase groundwater monitoring costs from approximately $250 to $400 per sample analyzed.

2. Continuing costs or savings: There are no continuing costs or savings.

3. Additional factors increasing or decreasing costs (note any effects upon competition): A limited number of laboratories have the capability to analyze for volatile organics. If more laboratories were capable to run organic analyses the cost of such analyses should decrease.

(b) Reporting and paperwork requirements: There are no additional reporting and paperwork requirements.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: There are no known direct or indirect costs or savings on the promulgating

administrative body.

2. Continuing costs or savings: There are no known continuing costs or savings.

3. Additional factors increasing or decreasing costs: There are no known factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: There are no known additional reporting and paperwork requirements.

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: 401 KAR 30:030, which presently contains the environmental performance standards, is being repealed. The proposed regulation clarifies and incorporates language from 401 KAR 30:030 and adds 8 additional volatile organics and their maximum contaminant levels (MCL). Provisions pertaining to Karst terrain have been moved to the regulations dealing with technical requirements for landfills. The environmental performance standards in this regulation impact the entire regulatory package. Karst terrain specifically impacts landfill siting and design. It therefore was moved.

Alternatives: 1. Less stringent: 40 CFR 257 sets forth the minimum environmental protection standards. This minimum must be complied with.

2. More stringent: Cleanup to background for the eight organic constituents would be more stringent. Since MCLs have now been set for these constituents this is unnecessary.

3. Present proposal: The present proposal meets 40 CFR 257 and includes the eight volatile organics promulgated in revisions to the Safe Drinking Water Act in July 1987.

(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 conflicting, overlapping or duplicative.

(a) Necessity of proposed regulation if in conflict: There is no conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no conflict.

(6) Any additional information or comments: There is no additional information.

TIERING: Was tiering applied? Yes. This regulation applies only to sites or facilities engaging in the treatment storage, recycling, or disposal of solid waste.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Subtitle D of RCRA is the federal nonhazardous solid waste statute. 40 CFR 257 sets the standards for classification of open dumps. Included in 40 CFR 257 are maximum contaminant levels promulgated in Section 1412 of the Safe Drinking Water Act (SDWA). In July, 1987, 8 volatile organic constituents were added to the SDWA. This proposed regulation adopts a form of these rules as the environmental performance standards.

2. State compliance standards. KRS Chapter 224 is the environmental protection authority for the Commonwealth of Kentucky. The proposed regulation sets forth the environmental standards with which all solid waste sites or facilities shall comply. 401 KAR 30:030, which presently contains the environmental performance standards, is being repealed. The proposed regulation clarifies and incorporates language from 401 KAR 30:030 and adds 8 additional volatile organics and their maximum contaminant levels (MCL).

3. Minimum or uniform standards contained in the federal mandate. 40 CFR 257 criteria establish minimum national performance standards towards achieving the goal that "no reasonable probability of adverse effects on health or the environment" will result from solid waste disposal facilities or practices.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This regulation will not impose stricter requirements or different responsibilities or requirements than those required by the federal mandate. 40 CFR 257 establishes the minimum national performance standards. Kentucky has adopted a form of these standards as the environmental performance standards.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. There are no stricter standards.

NATURAL RESOURCES & ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 47:080. Classification of solid waste sites or facilities.

RELATES TO: KRS 224.005 through 224.110, 224.830 through 224.888, 224.994

STATUTORY AUTHORITY: KRS Chapter 13A, 224.033, 224.842

NECESSITY AND FUNCTION: KRS Chapter 224 requires the cabinet to adopt rules and regulations for the management, processing, and disposal of solid wastes. KRS 224.842 requires that persons engaging in the storage, treatment, recycling, and disposal of solid waste obtain a permit. This chapter establishes the permitting standards for solid waste sites or facilities, the standards applicable to all solid waste sites or facilities, and the standards for certification of operators. This regulation sets forth the classification of solid waste sites or facilities for permitting purposes.

Section 1. Coverage. The permit regulations of 401 KAR Chapter 47 establish provisions for the solid waste permit program under KRS Chapter 224. The regulations of this chapter cover the basic permitting requirements, including application requirements, standard permit conditions, a presiting procedure, construction, modification, monitoring and reporting of any facility that manages solid waste. The regulations of this chapter are part of a regulatory scheme implementing the solid waste provisions of KRS Chapter 224. The solid waste permit program relies upon technical requirements which are contained in 401 KAR Chapter 48. The technical regulations are used by the cabinet to determine what conditions are applicable to each permit and to determine

compliance with KRS Chapter 224. Regulations governing solid waste planning are set forth in 401 KAR Chapter 49 and the enforcement and compliance monitoring requirements in 401 KAR Chapter 40.

Section 2. Permit Types. This chapter provides for several types of solid waste site or facility permits which are classified based on the waste managed and the facility type.

(1) Contained landfill permit. Contained landfill is the category of solid waste site or facility which accepts for disposal all nonhazardous solid waste including residential, commercial, institutional, industrial, and municipal waste and shredded tires. Contained landfills may also accept, with approval from the cabinet, household hazardous waste, limited quantity generator hazardous waste and nonhazardous spill cleanup residue. The technical requirements for contained landfills are found in 401 KAR 48:050 and 401 KAR 48:070 through 401 KAR 48:090.

(2) Construction/demolition debris landfill permit. Construction/demolition debris landfill is the category of solid waste site or facility for the disposal of solid waste which results from the construction, remodeling, repair and demolition of structures and roads, and for the disposal of uncontaminated solid waste consisting of vegetation resulting from land clearing and grubbing, utility line maintenance and seasonal and storm-related cleanup. Such waste includes, but is not limited to: bricks, shredded or segmented tires, concrete and other masonry materials, soil, rock, wood, wall coverings, plaster, drywall, plumbing fixtures, tree stumps, limbs, saw dust, leaves, yard waste, paper, paper products, metals, furniture, insulation, roofing shingles, asphaltic pavement, glass, plastics that are not sealed in a manner that conceals other wastes, electrical wiring and components containing no liquids or hazardous metals that are incidental to any of the above and other inert waste as approved by the cabinet. Asbestos-containing materials may be accepted only if the permit application includes procedures approved by the cabinet to handle these materials. Construction/demolition debris landfills shall not be for disposal of garbage, electrical fixtures containing hazardous liquids such as fluorescent light ballasts or transformers, PCB-containing waste, hazardous material spill residues, limited quantity generator hazardous waste, any waste regulated by 401 KAR Chapter 31 and 32, whole tires, liquids, drums, fuel tanks, or other nonpermitted waste. The technical requirements for construction/demolition debris landfills are found in 401 KAR 48:050 and 401 KAR 48:060.

(3) Residual landfill permit. Residual landfill is the category of solid waste site or facility designed and operated to accept for disposal a limited number of industrial wastes or residues which are fully characterizable. It also includes residuals from air and water pollution control devices and energy generation which are codisposed in a mining operation. In addition, residual landfills may accept sludge, and special wastes. The technical requirements for residual landfills are found in 401 KAR 48:050 and 401 KAR 48:170.

(4) Landfarming permit. Landfarming is a category of solid waste site or facility where solid waste is applied to the soil surface or injected into the upper layer of the soil to improve soil quality or provide plant nutrients. Solid wastes suitable for this purpose include, but are not limited to, food processing waste, municipal sewage treatment plant sludge, and municipal water treatment plant sludge. The technical requirements for landfarming facilities are found in 401 KAR 48:200.

(5) Permit-by-rule. Permit-by-rule is a category of solid waste site or facility permit for certain solid waste management practices listed in 401 KAR 47:150 which are deemed to have a permit without the owner or operator having made application to the cabinet. The practices and conditions of the permit-by-rule are specified in Section 1 of 401 KAR 47:150 and include limited tire disposal, on-site disposal of land clearing wastes, on-site disposal of construction and demolition wastes, sawdust piles, pumpings, oil production brine pits, gas and oil drilling, mud pits, and asphalt residues.

(6) Granted permit-by-rule.

(a) Granted permits-by-rule are a category of solid waste site or facility permit providing for the storage, treatment and disposal of solid waste that includes:

1. Commercial recycling centers;
2. Transfer stations;
3. Construction/demolition debris landfills of one (1) acre or less, when the wastes are not disposed at the site of generation;
4. Waste piles;
5. Solid waste incinerators that have a rated capacity of more than one (1) ton per day;
6. Sludge giveaway programs, composted sludge and other composted material programs in accordance with 401 KAR 48:200;
7. Landfarming of class I sludges in accordance with 401 KAR 48:200;
8. Junkyards;
9. Surface impoundments;
10. Septic tank pumpings if in compliance with the Cabinet for Human Resources regulations and the waste is not applied to within three (3) feet of the surface of the land unless a method to reduce pathogens has been utilized in accordance with 401 KAR 48:200;
11. Convenience centers;
12. Beneficial reuse of solid waste; and
13. Facilities that do not conform to any other type of permit.

(b) The determination that such facilities qualify for a granted permit-by-rule shall include consideration by the cabinet of the nature of the waste, including the amount and characteristics, and the potential for adverse effects on human health and the environment as identified in 401 KAR 47:030 and the potential need for corrective action including surface and groundwater monitoring under 401 KAR 48:300.

(c) Operators shall submit a notice of intent to apply for a solid waste facility permit as specified in Section 3 of this regulation, 401 KAR 47:170 or 401 KAR 48:200, and shall operate in accordance with the standards specified in 401 KAR 48:200 or 401 KAR 47:110, and 401 KAR 47:030.

(7) Emergency permit. An emergency permit is a category of solid waste site or facility permit for the short-term storage or disposal of solid waste generated from a storm or flood event or other emergency as specified by the cabinet. The requirements for emergency permits are found in 401 KAR 47:150.

(8) Research, development and demonstration

permit. A research, development and demonstration permit is a category of solid waste site or facility permit issued for a short period to demonstrate unproven technology. The permit procedures for this category can be found in 401 KAR 47:150.

(9) Residential landfill permit. A residential landfill permit is a category of solid waste site or facility permit which was issued prior to the effective date of this regulation. Landfills in this category may continue to operate under the prior issued permit provided they notify the cabinet in accordance with Section 4 of this regulation and comply with the operating standards for contained landfills as specified in 401 KAR 48:090, or construction/ demolition debris landfills as specified in 401 KAR 48:060. The facility may close in accordance with Sections 4 and 5 of this regulation or submit an application in accordance with the technical standards in 401 KAR Chapter 48.

(10) Inert landfill permit. An inert landfill permit is a category of solid waste site or facility permit which was issued prior to the effective date of this regulation. Landfills in this category may continue to operate under the prior issued permit provided they notify the cabinet in accordance with Section 4 of this regulation and comply with the operating standards for construction/demolition debris landfills as specified in 401 KAR 48:060 or residual landfills specified in 401 KAR 48:170. The facility may close in accordance with Sections 4 and 5 of this regulation or submit an application in accordance with the technical standards of 401 KAR Chapter 48.

Section 3. Notification Procedures for Granted Permit-by-rule Facilities Without Permits. All solid waste sites or facilities in existence on the effective date of this regulation that require granted permits-by-rule as specified in Section 2(6) of this regulation shall, no later than October 1, 1990, either file a notice of intent to apply for a solid waste permit (see 401 KAR 47:170 or 401 KAR 48:200) or close using the standards in Section 5(1)(c)1, 3, and 4 of this regulation.

(1) After submission of the notice of intent to apply form, the cabinet may issue a solid waste granted permit-by-rule. Facility owners or operators with granted permits-by-rule shall comply with the environmental performance standards of 401 KAR 47:030, the recordkeeping requirements of 401 KAR Chapter 48, and any condition of the granted permit-by-rule specified in 401 KAR 47:110.

(2) Timely submission of the notice of intent to apply form qualifies the operator of a granted permit-by-rule facility in existence on the effective date of this regulation for a solid waste granted permit-by-rule. The operator of such facilities may continue to operate the facility without further application to the cabinet subject to the conditions specified in 401 KAR 47:110.

(3) Existing facilities required by this chapter to apply for a granted permit-by-rule which close prior to the effective date of this regulation and complete closure prior to October 1, 1990, may close without submittal of the notice of intent to apply for a solid waste permit.

Section 4. Solid Waste Facilities with Permits Issued Prior to the Effective Date of this Regulation. (1) Within six (6) months of the effective date of this regulation, any person that possesses a solid waste landfill or landfarming permit issued before the effective date of this regulation under KRS Chapter 224 shall file a notice with the cabinet which states the operator's intent to close or meet the revised technical requirements by July 1, 1992.

(2) After July 1, 1992, no person shall operate a landfill or landfarming facility unless one (1) of the paragraphs of this subsection is satisfied:

(a) The facility, owner or operator possesses a permit issued under 401 KAR Chapters 47 and 48;

(b) The facility, owner or operator possesses a permit modified to meet the technical standards of 401 KAR Chapter 48;

(c) A complete technical application for a permit modification which meets the technical standards under 401 KAR Chapter 48 has been filed with the cabinet within twelve (12) months of the effective date of this regulation and the cabinet has not yet rendered a decision with respect to the complete application; or

(d) The facility, owner or operator has requested and received approval from the cabinet in accordance with subsection (3) of this section.

(3) Solid waste sites or facilities with permits issued prior to the effective date of this regulation may operate until July 1, 1995 if the following criteria are met:

(a) The owner or operator complies with subsections (1), (2), and (5) of this section;

(b) Construction quality control and quality assurance data have been approved by the cabinet and shall meet the requirements specified in Section 6 of 401 KAR 47:190 and document the existence of:

1. At least twelve (12) inches of soil with a maximum permeability of 1×10^{-7} centimeters per second;

2. A leachate collection system installed in a manner approved by the cabinet;

3. A groundwater monitoring system meeting the requirements of 401 KAR 48:300; and

(c) Groundwater monitoring data indicate no contamination sufficient to trigger assessment or corrective action as specified in Section 8 of 401 KAR 48:300.

(4) Solid waste sites or facilities with permits issued prior to the effective date of this regulation may close prior to July 1, 1992, under the closure requirements specified in Section 5 of this regulation without complying with the requirements of 401 KAR Chapter 48 provided:

(a) A complete closure plan which complies with the closure requirements of Section 5 of this regulation is submitted to the cabinet within twelve (12) months of the effective date of this regulation or one (1) year prior to last intended receipt of waste whichever occurs first;

(b) The operator maintains a valid operating permit prior to closure commencing; and

(c) The groundwater monitoring data for the facility show no increase above existing background of contaminants listed in 401 KAR 48:300.

(5) Residential and inert landfills permitted prior to the effective date of this regulation shall comply with the following operating

requirements:
(a) Residential landfills shall meet the operating requirements for contained landfills in 401 KAR 48:090 or construction/demolition debris landfills in 401 KAR 48:060.
(b) Inert landfills shall meet the operating requirements for construction/demolition debris landfills in 401 KAR 48:060 or residual landfills in 401 KAR 48:170.
(6) No placement of the low permeability soil liner component shall be initiated at any landfill, or portion thereof, unless it meets the requirements of 401 KAR Chapters 47 and 48. Operation may be authorized for any portion of a landfill in accordance with Section 4(2) of this regulation for which placement of the low permeability soil liner component had commenced prior to the effective date of this regulation.

Section 5. Closure Requirements for Sites Closing under Section 4(1) of this Regulation. (1) Residential landfills, contained landfills and inert landfills permitted prior to the effective date of this regulation, closing pursuant to the notice in Section 4(1) of this regulation, shall comply with the following:
(a) All records shall be submitted to the cabinet;
(b) A closure plan shall be submitted to the cabinet that shall contain the following requirements:
1. A description of the access controls;
2. A description of the covering activities and procedures including frequency of cover, total volume and source of borrow material available, and total estimated volume and source of cover required (final, daily and interim);
3. The proposed revegetation program, including provisions for liming, fertilization, seed types and seeding schedule, erosion control during early growth period, and interim cover vegetation program;
4. A final cover maintenance program covering the entire site and lasting two (2) years beyond closure, to include erosion control, reseeding, refertilization and growth control; and
5. A detailed plan for closure of the landfill in accordance with KRS 224.846 along with an estimate of closure costs; and
(c) Closure requirements.
1. Those areas of a landfill that shall receive no additional deposits of solid waste within 365 days of the last placement of waste shall receive final cover. A minimum final cover of two (2) feet shall be required in addition to any daily and interim cover required. All contained and residential landfills shall have the lower six (6) inches of the final cap contain soil with a permeability of 1×10^{-7} centimeters per second;
2. Before earth-moving equipment is removed from the site, an inspection of the entire site shall be made by an authorized representative of the cabinet to determine compliance with approved plans and specifications. The owner or operator shall submit a closure schedule based on the approved closure plan thirty (30) days prior to the last intended use of a solid waste facility;
3. Final cover shall be graded as provided in the approved closure plan in a manner to prevent ponding. For a period of two (2) years, the surface of final cover shall be maintained at the proper elevation as specified in the approved closure plan;
4. Final cover shall be revegetated. After grading, final cover shall be fertilized as necessary, seeded, and/or planted with legumes, perennial grasses or other vegetation according to the approved closure plan. The owner or operator shall be required to repeat this process until adequate vegetation is obtained to ensure soil stabilization as specified in the approved closure plan;
5. Other necessary corrective work required by the cabinet, if any, shall be performed before the landfill is accepted as closed and financial responsibility funds released;
6. The owner or operator of a residential or contained landfill shall record a notice that shall in perpetuity notify any potential purchaser of the property of the location and time of operation of the facility, and a statement that future disturbance of this area shall only occur after an examination of potential gas or leachate migration problems. Such notice shall be recorded in accordance with state property law prior to acceptance of final closure of the landfill.
(2) Landfarming facilities permitted prior to the effective date of this regulation closing under Section 4(1) of this regulation shall comply with the following:
(a) All records shall be submitted to the cabinet; and
(b) Food chain crops restrictions of 401 KAR 47:030 shall be met including deed notice if applicable.
(3) Residual landfills permitted prior to the effective date of this regulation closing under Section 4(1) of this regulation shall comply with the following:
(a) The closure plan shall specify the function and design of the final cover for the facility. The closure design shall assure compliance with the applicable environmental performance standards in 401 KAR 47:030 and shall reflect consideration of:
1. The type and amount of waste in the facility;
2. The mobility and expected rates of migration of the waste;
3. The site location, topography and surrounding land use, and final site use;
4. The climatic conditions in the area;
5. The characteristics of the cover material including erodability, slope, length of run of slope, and type of vegetation on the cover; and
6. The geological and soil profiles and surface and subsurface hydrology of the site.
(b) All records shall be submitted to the cabinet.
(c) Closure requirements.
1. A residual landfill shall be closed in a manner that shall assure compliance with the environmental performance standards in 401 KAR 47:030. The closure shall include the placement of a final cover over the facility as specified in the approved design of the site;
2. Any necessary corrective work required by the cabinet shall be performed before the residual landfill is accepted as closed and financial responsibility funds released;
3. The owner or operator of a residual landfill shall record a notice that shall in perpetuity notify any potential purchaser of the property of the location and time of the operation of the facility, nature of the waste placed in the site and a caution against future disturbance of the area. Such notice shall be

recorded in accordance with state property law prior to acceptance of final closure of the landfill; and

4. Closure care maintenance. A residual landfill shall be maintained for two (2) years following the closure of the site in a manner that complies with the environmental performance standards in 401 KAR 47:030 and in accordance with any approved closure care monitoring and maintenance plan approved by the cabinet.

Section 6. Solid Waste Facility Applications Pending on the Effective Date of This Regulation. (1) Applications pending as of the effective date of this regulation shall be revised to meet all requirements of 401 KAR Chapters 47 and 48 prior to being determined technically complete.

(2) Applications that have been determined to be administratively complete prior to the effective date of this regulation and have published the notices required by KRS 224.855 shall complete the public information process commencing with Section 12(3) of 401 KAR 47:140.

Section 7. Repeal. 401 KAR 47:020, entitled Solid waste permit process, is hereby repealed.

FRANK DICKERSON, Commissioner
CARL H. BRADLEY, Secretary
APPROVED BY AGENCY: January 9, 1990
FILED WITH LRC: January 15, 1990 at 9 a.m.

PUBLIC HEARING: A public hearing to receive comments on this proposed regulation will be conducted February 22, 1990 at 10 a.m. (EDT), in the first floor auditorium of the New State Office Building, High and Clinton Streets, Frankfort, Kentucky. Persons interested in attending this public hearing shall notify in writing at least five days prior to the hearing: David W. Morgan, Division of Waste Management, Frankfort Office Park, 18 Reilly Road, Frankfort, Kentucky 40601. Persons wishing to submit written comments without attending the hearing may do so, if the written comments are received in the Frankfort office of the Department for Environmental Protection by 4:30 p.m.(EDT) on February 22, 1990.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Susan C. Bush, Director

(1) Type and number of entities affected: The proposed regulation will affect all sites or facilities engaged in the management, processing, or disposal of solid waste. There are approximately 80 landfills and 63 landfarming sites. Other sites will be affected, such as surface impoundments, waste piles, etc.; however, inventories of such sites are not available.

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

1. First year: The proposed regulation restructures and clarifies existing policy and procedures. There will be no direct or indirect costs or savings to those affected.

2. Continuing costs or savings: There are no continuing costs or savings.

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors which will increase or decrease costs.

(b) Reporting and paperwork requirements: There are no reporting or paperwork requirements associated with this proposed regulation.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: There are no direct or indirect costs or savings. The proposed regulation restructures and clarifies existing regulations and does not constitute a change in policy.

2. Continuing costs or savings: There are no continuing costs or savings.

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 or paperwork requirements associated with this proposed regulation.

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: KRS 224.842 requires persons engaging in management, processing, or disposal of waste to obtain a permit.

Alternative: 1. Less stringent: 40 CFR 257 Part criteria establish minimum standards with which the state must comply.

2. More stringent: More stringent alternatives were not considered as the proposed regulation adequately protects human health and the environment.

3. Present proposal: The present proposal clarifies and restructures present regulations at 401 KAR 47:020 and does not constitute a change in policy. 401 KAR 47:020 is being repealed with this action.

This regulation classifies the types of solid waste sites or facilities that belong in each permit type. There is no cost associated with this classification. Costs are incurred for complying with the transition requirements as some facilities will need to upgrade present standards. These costs are outlined in the technical regulations for design and operation. Solid waste sites or facilities with permits issued prior to the effective date of this regulation may have as much as 5 years to upgrade their facility if specified requirements are met. Variances may be granted for certain construction and design requirements.

(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 conflicting, overlapping or duplicative.

(a) Necessity of proposed regulation if in conflict: There is no conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no conflict.

(6) Any additional information or comments: There is no additional information or comments.

TIERING: Was tiering applied? Yes. The regulations of 401 KAR Chapters 47 and 48 use multiple tiering systems. Permit-by-rule in 401 KAR 47:150, and granted permit-by-rule in 401 KAR 47:110 give certain practices and management activities a method of avoiding full permits. Emergency permits and research, development and demonstration permits in 401 KAR 47:150 provide permitting mechanisms for certain situations.

The solid waste landfills (contained, residual and construction/demolition debris) and the 3 classes of landfarming provide for a tiering mechanism based on the type and quality of the waste received.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Subtitle D of the Resource Conservation and Recovery Act, as amended, is the federal statute constituting the federal mandate. 40 CFR Part 257 also supplies criteria for classification of solid waste disposal facilities and practices. Under a 1984 amendment to the Resource Conservation and Recovery Act, the U.S. EPA was required to revise their existing solid waste regulations for facilities receiving household hazardous wastes or hazardous wastes from persons who generate less than 220 pounds per month. The federal law specifies in Section 4010(c) that, at a minimum, the revisions shall include groundwater monitoring to detect contamination, establish criteria for the acceptable location of new or existing facilities, and provide for corrective action as appropriate. On August 30, 1988, the federal government proposed revisions to the existing solid waste regulations. If the administrator of the U.S. EPA determines that a state has not adopted an adequate permit the EPA may enforce the revised federal criteria at facilities that may receive household hazardous wastes and hazardous wastes from persons who generate less than 220 pounds per month.

2. State compliance standards. KRS 224.842 requires persons engaging in storage, treatment, recycling, and disposal of solid waste to obtain a permit. KRS Chapter 224 is the environmental protection authority for the Commonwealth of Kentucky. The proposed regulation establishes the type of solid waste site or facility permits by waste managed and facility type.

3. Minimum or uniform standards contained in the federal mandate. 40 CFR Part 257 criteria establish minimum national performance standards necessary to ensure that no reasonable probability of adverse effects on health or the environment will result from solid waste disposal facilities or practices.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The proposed regulation does not impose stricter requirements or additional or different responsibilities or requirements than those imposed by the federal mandate. 401 KAR 47:080 restructures and clarifies existing regulations at 401 KAR 47:020 and does not constitute any change in policy. 401 KAR 47:020 is being repealed with this action. Differences are noted in other regulations.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The proposed regulation does not impose stricter standards or additional or different responsibilities or requirements.

NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 47:090. Solid waste permit fees.

RELATES TO: KRS 224.846, 224.855
STATUTORY AUTHORITY: KRS 13A.210, 224.033
NECESSITY AND FUNCTION: KRS 224.033(20) states that the cabinet may provide by regulation for a reasonable schedule of fees for the cost of processing applications for permits, exemptions, and partial exemptions. This chapter establishes standards for solid waste sites or facilities. The purpose of this regulation is to establish a fee schedule for the issuance and modification of solid waste disposal permits or variances.

Section 1. Applicability. (1) The provisions of this regulation shall apply to the owner or operator of each solid waste site or facility required to apply for a permit, permit renewal or exemption, except publicly-owned facilities.

(2) The provisions of this regulation shall apply to solid waste site or facility permit applications submitted on or after the effective date of this regulation, and to such applications which are not complete as determined by the cabinet, by the effective date of this regulation. Solid waste site or facility permit applications which are complete as determined by the cabinet, by the effective date of this regulation, shall be subject to the provisions of 401 KAR 47:060 as in effect on October 26, 1988.

Section 2. Filing Fees. (1) Any owner or operator may submit a notice of intent to apply for a solid waste facility permit, permit modification, or variance for initial review and shall include with the notice of intent to apply a check or money order for the filing fee determined by the schedule below:

Application Type	Fee
Review of the notice of intent to apply to determine site suitability	$500
Preliminary permit modification application review to determine site suitability for expansion	$500
Preliminary request for variance of design criteria	$500

(2) Any owner or operator who submits an administrative phase of a permit application for a new solid waste site or facility or an application for expansions to existing facility sites shall include with the application a check or money order for the filing fees determined by this subsection.

(a) The filing fees listed below for the administrative phase of a permit application shall be submitted with the application:

Solid Waste Facility Type	Fee
Construction/demolition debris landfill	$ 5,000
Contained landfill	$10,000
Residual landfill	$ 2,500

(b) Any owner or operator who submits a technical phase of a permit application for a solid waste site or facility shall include with

the application the filing fee listed below:

Solid Waste Facility Type	Fee
Construction/demolition debris landfill	$5,000
Contained landfill	$5,000
Residual landfill	$2,500

(3) Upon notification to the cabinet that construction for any phase has been completed, any owner or operator who notifies the cabinet that the facility has been constructed and requests the issuance of a permit to operate, or a modification to a permit to operate a solid waste site or facility, shall include with the request a check or money order in the amount of the filing fee, assessed in accordance with the following schedule:

Solid Waste Facility Type	Fee
Contained landfill	$800
Residual landfill	$500
Residential landfill	$500
Landfarming facility	$500
Inert landfill	$200
Construction/demolition debris landfill	$500

(4) Any owner or operator who submits an application for renewal of an existing solid waste facility permit, shall include with the application a check or money order in an amount equal to the number of years for which the facility permit shall be renewed multiplied by the amounts listed below:

Solid Waste Facility Type	Amount per Year
Inert landfill	$ 300
Residential landfill receiving less than 200 tons per day	$ 500
Residential landfill receiving 200 or more tons per day	$3,000
Construction/demolition debris landfill receiving less than 200 tons per day	$ 500
Construction/demolition debris landfill receiving 200 or more tons per day	$ 500
Contained landfill	$ 500
Residual landfill	$ 500
Landfarming facility	$ 300

(5) Any renewal for a construction permit for which fees are not required under subsection (4) of this section shall be $500.

(6) Any owner or operator who submits an application for a solid waste facility permit modification shall include with the application a check or money order for the fee listed below:

(a) $1,000 for modifications involving operating methods or proposed closure.

(b) $50 for modifications for additional wastes not listed in the approved permit application.

(c) $500 for a variance from an existing permit requirement.

(d) $500 for change of ownership of an existing permitted facility.

(7) Any owner or operator who submits an application for the following permits shall include a check or money order as listed below:

(a) $500 for application for approval of a granted permit-by-rule.

(b) $1,000 for application for closure of a solid waste site not under a current solid waste facility permit.

(c) $500 for application for approval of emergency permits.

(d) $500 for application for approval of research, development and demonstration permits.

(e) $5,500 for application for approval of landfarming permits.

(8) Filing fees are not refundable if an application for a permit, modification, or variance is denied or an application is withdrawn after the review is initiated.

(9) Submittal of fees. The required fees shall be submitted to the cabinet. All checks or money orders shall be made payable to the Kentucky State Treasurer.

Section 3. Repeal. 401 KAR 47:060, entitled Permit fees, is hereby repealed.

FRANK DICKERSON, Commissioner
CARL H. BRADLEY, Secretary
APPROVED BY AGENCY: January 9, 1990
FILED WITH LRC: January 15, 1990 at 9 a.m.

PUBLIC HEARING: A public hearing to receive comments on this proposed regulation will be conducted February 22, 1990 at 10 a.m. (EDT), in the first floor auditorium of the New State Office Building, High and Clinton Streets, Frankfort, Kentucky. Persons interested in attending this public hearing shall notify in writing at least five days prior to the hearing: David W. Morgan, Division of Waste Management, Frankfort Office Park, 18 Reilly Road, Frankfort, Kentucky 40601. Persons wishing to submit written comments without attending the hearing may do so, if the written comments are received in the Frankfort office of the Department for Environmental Protection by 4:30 p.m.(EDT) on February 22, 1990.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Susan C. Bush, Director

(1) Type and number of entities affected: All private solid waste facilities that require a permit will be affected. KRS 224.033(20) prohibits the assessment of fees on public facilities for the issuance of permits. Therefore, the proposed amendments do not affect public solid waste facilities.

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

1. First year: Private solid waste facilities will experience an increased cost for a review of a construction permit when a comprehensive review of the entire application is not warranted. This will be $500. The cost for permit renewals, modifications, and other permit issuance activities for the first year will be approximately $100,000. Approximately 28 landfills will apply for permit renewal during fiscal year 1990. The preliminary application fees to determine suitability for a new or expanded solid waste site include costs for review of the application, a minimum of one site visit, meetings, phone calls, and clerical support. The major costs are the site visit and review of the application. The fee filed with the initial application covers the following items: the cost of review of the application to determine if all requirements of the regulations have been addressed, the cost of public notice, the cost of development of an executive summary

submitted to the county judge executive and members of the fiscal court, and associated meetings.

2. Continuing costs or savings: Private solid waste facilities will experience continuing cost if their construction permit is completed in phases. The present fee will be assessed for each phase. Additionally, less than 10 landfills will apply for permit renewal or close each succeeding year. Approximately $40,000 will be generated from solid waste permits each year.

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors increasing or decreasing cost.

(b) Reporting and paperwork requirements: There will be no additional reporting or paperwork requirements.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The state will receive revenues consistent with the actual cost of review of applications. The state will receive approximately 15 construction permit applications annually which do not require a comprehensive review ($7500). The state will also receive approximately 10 permit applications for construction in phases.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: There will be no additional reporting or paperwork requirements.

(3) Assessment of anticipated effect on state and local revenues: The proposed regulation will increase state revenue annually. There will be no affect on local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Alternative: The proposed regulation adjusts fees for solid waste permits to reflect the changes in the permit application process and the reclassification of solid waste sites and facilities.

1. Less stringent: The fees for construction phases and construction permit review are based on the cabinet's expenses for issuing the permits. To charge less would cause the cabinet to absorb the expense.

2. More stringent: To charge more would put an unnecessary financial burden on the regulated community.

3. Present proposal: The present proposal expands the criteria for solid waste permit fees involving the construction of sanitary landfills. The amendment includes a fee for construction permits completed in phases. A $500 fee is also added for facilities renewing a construction permit that do not involve a comprehensive review of the application.

(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 conflicting, overlapping or duplicative.

(a) Necessity of proposed regulation if in conflict: There is no conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no conflict.

(6) Any additional information or comments: The fees for the permitting of nonhazardous waste landfills are based upon the cost incurred by the cabinet to review the permit application.

TIERING: Was tiering applied? Yes. This regulation applies to private solid waste facilities that require a permit.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Fees are not assessed under the federal regulatory system. Thus, there is no comparable mandate suggested or contained in the federal regulations.

2. State compliance standards. KRS Chapter 224 provides that the cabinet shall establish fees for the processing, review and issuance of permits. The proposed regulation reflects the changes in the permit application process and reclassification of landfills.

3. Minimum or uniform standards contained in the federal mandate. Fees are not assessed under the federal regulatory system. Therefore, no minimum standards exist in relation to 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? There is no federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. There is no federal mandate.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 47:100. General provisions for obtaining a solid waste permit.

RELATES TO: KRS 224.005 through 224.110, 224.830 through 224.886, 224.994

STATUTORY AUTHORITY: KRS Chapter 13A, 224.033, 224.835, 224.842, 224.855, 224.867

NECESSITY AND FUNCTION: KRS Chapter 224.842 requires that persons who engage in the management, processing, and disposal of waste first obtain a waste facility permit from the cabinet. This chapter establishes the permitting standards for solid waste sites or facilities, the standards applicable to all solid waste sites or facilities and the standards for certified operators. This regulation establishes the procedures for obtaining a permit for a solid waste facility.

Section 1. Overview of the Solid Waste Site or Facility Permit Program. This regulation sets forth the specific requirements for the solid waste site or facility permitting program. KRS 224.842 requires acquisition of a permit to establish, construct, operate and maintain a waste site or facility. The term waste site or facility is defined in KRS 224.005. Owners or operators of solid waste sites or facilities shall have permits during the active life (including the closure period) of the facility and, for any facility that closes after July 1, 1992, during any closure care period required under 401 KAR Chapter 48.

Section 2. Scope of the Permit Requirements. (1) The permit process is specified in 401 KAR 47:160. A permit application consists of three (3) parts: notice of intent to apply for a solid waste permit (see 401 KAR 47:170 or 401 KAR 48:200), an administrative application (see 401 KAR 47:180), and a technical application (see 401 KAR 47:190). The permit program has separate additional regulations that contain technical requirements. These separate regulations are used by the cabinet to determine whether permits shall be issued and what conditions to those permits are required. These separate regulations are located in this chapter and 401 KAR Chapter 48.

(2) Specific exclusions. The following persons are among those who are not required to obtain a solid waste site or facility permit:

(a) Disposers of agricultural waste, including manures and crop residues returned to the soil as fertilizers or soil conditioners by practices common to soil conditioning, provided the wastes are used on the same farm on which they are generated;

(b) Disposers of mining over-burden, coal mining wastes, refuse, and coal mining by-products returned to the mine site on the site of generation, including any nonhazardous solid waste generated directly as a result of the mining operation on site;

(c) Owners or operators of injection wells that dispose of solid waste with an underground injection control permit issued by the U.S. EPA, providing they comply with the conditions of that permit;

(d) Users of septic tanks in compliance with KRS 211.972 through 211.982;

(e) Owners or operators of mining surface impoundments and other surface impoundments used solely for sediment control with Kentucky Pollution Discharge and Elimination System (KPDES) permits, providing they comply with the conditions of their permit;

(f) Persons managing solid waste during immediate response to any of the following situations:

1. A spill of a solid waste;

2. An imminent and substantial threat of a spill of solid waste; or

3. A spill of a material which, when spilled, becomes a solid waste; and

(g) Owners or operators of surface impoundments receiving solid waste that treat domestic sewage that does not contain any industrial wastewater, or are publicly owned treatment works (POTW) for the treatment of domestic sewage, if the facility complies with the conditions of its KPDES or NPDES permit.

(3) Specific inclusions. Owners and operators of certain facilities with permits under other programs for certain aspects of the facility operation shall also obtain solid waste site or facility permits. The following types of facilities are required to have solid waste site or facility permits:

(a) Solid waste sites or facilities which have or have had a surface mining permit and dispose of wastes other than mine spoils or coal mining solid wastes; and

(b) Any person who initiates or continues solid waste containment or disposal activities after an immediate response deadline is passed is subject to all applicable requirements of this chapter and 401 KAR Chapter 48 for those activities.

(4) Permits for less than an entire facility. The cabinet may issue or deny a permit for one (1) or more units at a facility without simultaneously issuing or denying a permit to all of the units at the facility. A granted permit-by-rule for any unit for which a permit has not been issued or denied is not affected by the issuance or denial of a permit to any other unit at the facility.

Section 3. Considerations of State and Federal Law. Permits shall be issued in a manner and shall contain conditions consistent with requirements of applicable state and federal laws. These laws include but are not limited to:

(1) The Wild and Scenic Rivers Act. 16 U.S.C. 1273, et seq. Section 7 of the Act.

(2) Kentucky wild rivers system in KRS 146.200 through 146.410 and the implementing regulations.

(3) The National Historic Preservation Act of 1966. 16 U.S.C. 470, et seq. Section 106 of the Act and implementing regulations (36 CFR Part 800).

(4) The Endangered Species Act. 16 U.S.C. 1531, et seq. Section 7 of the Act and implementing regulations (50 CFR Part 402).

(5) The Fish and Wildlife Coordination Act. 16 U.S.C. 661, et seq.

(6) The Kentucky Nature Preserves Commission requirements in KRS 146.410 through 146.505 and implementing regulations.

Section 4. Limitations of a Permit. (1) A permit may be modified, or revoked, during its term for cause as set forth in 401 KAR 47:130 and in 401 KAR Chapter 40.

(2) The issuance of a permit does not convey any property rights of any sort, or any exclusive privilege.

(3) The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, or any infringement of state or local laws or regulations.

Section 5. Prohibition of Use of Unpermitted Facilities. (1) Restrictions. No person shall deliver solid waste to a facility for management, processing or disposal unless the owner or operator has:

(a) Submitted a notice of intent to apply for a solid waste permit to the cabinet as an existing solid waste facility in operation on or before the effective date of this regulation;

(b) Qualified for a permit-by-rule in accordance with 401 KAR 47:150;

(c) Qualified for a granted permit-by-rule in accordance with Section 1(1) of 401 KAR 47:110; or

(d) Obtained a valid solid waste facility permit issued by the cabinet in accordance with 401 KAR Chapter 47.

(2) Permit required. No person shall engage in the management, processing, or disposal of solid waste without first obtaining a permit from the cabinet as specified in KRS 224.842.

FRANK DICKERSON, Commissioner
CARL H. BRADLEY, Secretary
APPROVED BY AGENCY: January 9, 1990
FILED WITH LRC: January 15, 1990 at 9 a.m.

PUBLIC HEARING: A public hearing to receive comments on this proposed regulation will be conducted February 22, 1990 at 10 a.m. (EDT), in the first floor auditorium of the New State

Office Building, High and Clinton Streets, Frankfort, Kentucky. Persons interested in attending this public hearing shall notify in writing at least five days prior to the hearing: David W. Morgan, Division of Waste Management, Frankfort Office Park, 18 Reilly Road, Frankfort, Kentucky 40601. Persons wishing to submit written comments without attending the hearing may do so, if the written comments are received in the Frankfort office of the Department for Environmental Protection by 4:30 p.m.(EDT) on February 22, 1990.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Susan C. Bush, Director

(1) Type and number of entities affected: The proposed regulation will affect all sites or facilities engaging in the management, processing, and disposal of waste.

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

1. First year: The proposed regulation restructures and clarifies existing regulations and does not constitute a change in policy. There will be no direct or indirect costs or savings to those affected.

2. Continuing costs or savings: There are no continuing costs or savings.

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors which will increase or decrease costs.

(b) Reporting and paperwork requirements: There are no reporting or paperwork requirements associated with this proposed regulation.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: There are no direct or indirect costs or savings to the promulgating administrative body.

2. Continuing costs or savings: There are no continuing costs or savings.

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 or paperwork requirements associated with this proposed regulation.

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: KRS 224.842 requires persons engaging in management, processing, and disposal of solid waste to obtain a permit. The proposed regulation establishes the scope of permit requirements by listing specific solid waste operations that are included in and exempt from the permit process.

Alternative: 1. Less stringent: Less stringent alternatives are not possible. 40 CFR 257 criteria establish minimum standards with which the state must comply.

2. More stringent: More stringent alternatives were not considered as the proposed regulation adequately protects human health and the environment.

3. Present proposal: The present proposal clarifies and restructures present regulations and does not constitute a change in policy.

(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 conflicting, overlapping or duplicative.

(a) Necessity of proposed regulation if in conflict: There is no conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no conflict.

(6) Any additional information or comments: There is no additional information or comments.

TIERING: Was tiering applied? Yes. This proposed regulation applies only to sites or facilities that manage, process, or dispose of solid waste. The regulations of 401 KAR Chapters 47 and 48 use multiple tiering systems. Permit-by-rule in 401 KAR 47:150, and granted permit-by-rule in 401 KAR 47:110 give certain practices and management activities a method of avoiding full permits. Emergency permits and research, development and demonstration permits in 401 KAR 47:150 provide permitting mechanisms for certain situations. The solid waste landfills (contained, residual and construction/demolition debris) and the 3 classes of landfarming provide for a tiering mechanism based on the type and quality of the waste received.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Subtitle D of the Resource Conservation and Recovery Act (RCRA) is the federal statute constituting the federal mandate. 40 CFR Part 257 also supplies criteria for permitting of solid waste facilities and practices. Under a 1984 amendment to the Resource Conservation and Recovery Act, the U.S. EPA was required to revise their existing solid waste regulations for facilities receiving household hazardous wastes or hazardous wastes from persons who generate less than 220 pounds per month. The federal law specifies in Section 4010(c) that, at a minimum, the revisions shall include groundwater monitoring to detect contamination, establish criteria for the acceptable location of new or existing facilities, and provide for corrective action as appropriate. On August 30, 1988, the federal government proposed revisions to the existing solid waste regulations. If the administrator of the U.S. EPA determines that a state has not adopted an adequate permit, the EPA may enforce the revised federal criteria at facilities that may receive household hazardous wastes and hazardous wastes from persons who generate less than 220 pounds per month.

2. State compliance standards. KRS 224.842 requires persons engaging in management, processing, and disposal of solid waste to obtain a permit. KRS Chapter 224 is the environmental protection authority for the Commonwealth of Kentucky. The proposed regulation establishes the scope of permit requirements by listing specific solid waste operations that are included in and exempt from the permit process. The proposed regulation clarifies present regulations and does not constitute a change in policy. The federal law requires states to adopt a permitting procedure but the proposed federal regulation does not adopt a federal standard. This proposed

regulation continues the current state procedures while drawing procedural language from the existing federal permitting regulations.

3. Minimum or uniform standards contained in the federal mandate. 40 CFR 257 and RCRA Subtitle D establish minimum standards necessary to ensure that no reasonable probability of adverse effects on health or the environment will result from solid waste disposal facilities or practices.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The proposed regulation does not impose stricter requirements or additional or different responsibilities or requirements than those imposed by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The proposed regulation does not impose stricter standards or additional or different responsibilities or requirements.

NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 47:110. Granted permit-by-rule.

RELATES TO: KRS 224.005 through 224.110, 224.830 through 224.888, 224.994

STATUTORY AUTHORITY: KRS Chapter 13A, 224.033, 224.842

NECESSITY AND FUNCTION: KRS Chapter 224 requires the cabinet to adopt rules and regulations for the management, processing, and disposal of wastes. KRS 224.842 requires that persons engaging in the management, processing, and disposal of waste obtain a permit. This chapter establishes the permitting standards for solid waste sites or facilities, the standards applicable to all solid waste sites or facilities, and the standards for certification of operators. An overview of the permit program is found in Section 1 of 401 KAR 47:080. This regulation establishes requirements for granted permits-by-rule.

Section 1. Granted Permit-by-rule. (1) Any owner or operator of a solid waste site or facility specified in Section 2(6) of 401 KAR 47:080 in existence as of the effective date of this regulation shall notify the cabinet by submitting a notice of intent to apply for a granted permit-by-rule. The facility shall be treated as having been granted a permit if the owner or operator complied with the requirements of Section 2 of 401 KAR 47:170 pertaining to a notification of intent to apply for a solid waste permit by October 1, 1990 and complies with the environmental performance standards in 401 KAR 47:030.

(2) When the cabinet determines upon examination or reexamination of the notification of intent to apply for a solid waste permit that it fails to meet the standards of these regulations, the cabinet shall notify the operator that the application is deficient and that the operator is, therefore, not entitled to a granted permit-by-rule. The owner or operator shall then be subject to enforcement procedures for operating without a permit.

(3) Subsection (1) of this section shall not apply to any facility which has been previously denied a permit or to any facility whose authority to operate under 401 KAR Chapters 47 through 48 and KRS Chapter 224 has been previously terminated.

Section 2. Operation During a Granted Permit-by-rule. (1) During the term of a granted permit-by-rule period, the facility, except as provided in Section 3 of this regulation, shall not:

(a) Store, treat or dispose of solid waste not specified in the notice of intent to apply for the permit; or

(b) Exceed the design capacities specified in the notice of intent to apply for the permit.

(2) During the term of a granted permit-by-rule, the owner or operator shall comply with the environmental performance standards in 401 KAR 47:030.

(3) During the term of a granted permit-by-rule, the owner or operator shall keep records of the amount, sources and types of municipal solid waste received and other information as required by the cabinet and shall submit a quarterly summary of this information to the cabinet. The quarterly report shall be on a form approved by the cabinet.

(4) Convenience centers, transfer stations, solid waste incinerators, and commercial recyclers shall additionally submit a report to the cabinet annually, no later than January 31st for the previous year. The report shall identify the sources and quantities of waste handled. Additionally, solid waste incinerators shall report volume of ash and the results of weekly extraction procedure tests on the ash.

Section 3. Changes to a Granted Permit-by-rule. (1) Solid wastes not previously identified in the notice of intent to apply for a solid waste permit may be stored, treated, or disposed at a facility if the owner or operator submits a revised notice of intent to apply for a solid waste permit prior to such a change.

(2) The owner or operator shall submit a revised notice of intent to apply for a solid waste permit prior to increases in the design capacity of processes used at a facility including a justification explaining the need for the change.

(3) The owner or operator shall submit a revised notice of intent to apply for a solid waste permit prior to changes in the processes for the storage, treatment or disposal of solid waste or use of additional processes including a justification explaining the need for the change.

(4) The owner or operator shall submit a revised notice of intent to apply for a solid waste permit no later than ninety (90) days prior to the scheduled change. This includes changes in owners or operators.

(5) No changes listed in subsections (1) through (4) of this section can be implemented prior to cabinet approval of the revised notice of intent to apply.

Section 4. Deadlines for Submission of Administrative and Technical Permit Applications. The cabinet may require submission of the administrative and technical application at any time. All granted permit-by-rule sites or facilities which have submitted a notice of

intent to apply for a solid waste permit shall be required to submit an administrative and technical application within six (6) months of the cabinet's decision to require such submittal, according to Section 2 of 401 KAR 47:160.

FRANK DICKERSON, Commissioner
CARL H. BRADLEY, Secretary
APPROVED BY AGENCY: January 9, 1990
FILED WITH LRC: January 15, 1990 at 9 a.m.
PUBLIC HEARING: A public hearing to receive comments on this proposed regulation will be conducted February 22, 1990 at 10 a.m. (EDT), in the first floor auditorium of the New State Office Building, High and Clinton Streets, Frankfort, Kentucky. Persons interested in attending this public hearing shall notify in writing at least five days prior to the hearing: David W. Morgan, Division of Waste Management, Frankfort Office Park, 18 Reilly Road, Frankfort, Kentucky 40601. Persons wishing to submit written comments without attending the hearing may do so, if the written comments are received in the Frankfort office of the Department for Environmental Protection by 4:30 p.m.(EDT) on February 22, 1990.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Susan C. Bush, Director
(1) Type and number of entities affected: The proposed regulation will affect owners and operators of solid waste transfer stations, commercial recycling centers, solid waste incinerators, construction and demolition waste sites, certain landfarming operations, waste piles, junkyards, surface impoundments, convenience centers, and beneficial reuse programs. The proposed regulation will require application and reporting requirements which will enable the cabinet to acquire much needed data. These data will provide the number of facilities covered by the permit-by-rule. Present regulations do not require reporting and only approximate numbers are available. There is estimated to be one transfer station per county, two recycling facilities per county, 400 incinerators, 45 landfarms, and 1,000 waste piles covered under the granted permit-by-rule criteria.
(a) Direct and indirect costs or savings to those affected:
1. First year: Granted permit-by-rule facilities, will be required to submit applications to obtain a granted permit-by-rule. Depending on the facility size, type, and waste handled, affected facilities could incur costs from $500 to $1,000 in the first year to prepare the application.
2. Continuing costs or savings: The affected facilities will be required to report annually and maintain records. The affected facilities will need additional staff to maintain these records. Depending on the facility size and type of waste, costs could range from $5,000 to $30,000 annually.
3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors which will increase or decrease costs.
(b) Reporting and paperwork requirements: The major effect of this proposed regulation is the reporting requirements. Currently, granted permits-by-rule are automatically granted to certain solid waste operations. The cabinet, therefore, has limited data concerning site location and number of facilities and operations presently covered by these criteria. These reporting requirements will provide the state with much needed information. Affected facilities will be required to apply for the granted permit-by-rule and report annually to the cabinet.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: The increased number of applications will necessitate a staffing increase of two to four work years to process permits, maintain records, and generate correspondence.
2. Continuing costs or savings: Staffing costs will be a continuing cost.
3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.
(b) Reporting and paperwork requirements: Receipt of the applications and reports generated by the affected facilities will generate more correspondence and paperwork for the promulgating administrative body.
(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.
(4) Assessment of alternative methods; reasons why alternatives were rejected: Alternative: 1. Less stringent: 40 CFR 257 criteria establish minimum standards with which the state must comply.
2. More stringent: More stringent alternatives were not considered as the proposed regulation adequately protects human health and the environment.
3. Present proposal: The present proposal requires affected facilities to submit an application and report to the cabinet. This will assure that the environmental performance standards are met and also supply the agency with the information needed to monitor the number of operating facilities.
(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 conflicting, overlapping or duplicative.
(a) Necessity of proposed regulation if in conflict: There is no conflict.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no conflict.
(6) Any additional information or comments: There is no additional information or comments.
TIERING: Was tiering applied? Yes. The regulations of 401 KAR Chapters 47 and 48 use multiple tiering systems. Permit-by-rule in 401 KAR 47:150, and granted permit-by-rule in 401 KAR 47:110 give certain practices and management activities a method of avoiding full permits. Emergency permits and research, development and demonstration permits in 401 KAR 47:150 provide permitting mechanisms for certain situations. The solid waste landfills (contained, residual and construction/demolition debris) and the 3 classes of landfarming provide for a tiering mechanism based on the type and quality of the waste received.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 40 CFR Parts 256 and 257 are the federal regulations constituting the federal mandate. These regulations supply the planning and permit standards for Kentucky's solid waste program. Under a 1984 amendment to the Resource Conservation and Recovery Act, the U.S. EPA was required to revise their existing solid waste regulations for facilities receiving household hazardous wastes or hazardous wastes from persons who generate less than 220 pounds per month. The federal law specifies in Section 4010(c) that, at a minimum, the revisions shall include groundwater monitoring to detect contamination, establish criteria for the acceptable location of new or existing facilities, and provide for corrective action as appropriate. On August 30, 1988, the federal government proposed revisions to the existing solid waste regulations. If the administrator of the U.S. EPA determines that a state has not adopted an adequate permit the EPA may enforce the revised federal criteria at facilities that may receive household hazardous wastes and hazardous wastes from persons who generate less than 220 pounds per month.

2. State compliance standards. KRS 224.842 requires persons engaging in management, processing and disposal of waste to obtain a permit. KRS Chapter 224 is the environmental protection authority for the Commonwealth of Kentucky. The proposed regulation requires granted permit-by-rule facilities to submit an application and report to the cabinet. The federal law requires states to adopt a permitting procedure but the proposed federal regulation does not adopt a federal standard. This proposed regulation continues the current state procedures while drawing procedural language from the federal permitting regulations.

3. Minimum or uniform standards contained in the federal mandate. The federal mandate establishes minimum national performance standards necessary to ensure that no reasonable probability of adverse effects on human health or the environment will result from solid waste disposal facilities or practices.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This proposed administrative regulation imposes different requirements but is consistent with federal requirements for permitting.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Present regulations allow a permit-by-rule to be granted to certain disposal facilities or practices with evaluation by the cabinet. The proposed regulation will allow the cabinet to assure that the environmental performance standards outlined in 40 CFR Part 257 are met, as well as supply needed data for monitoring and informational purposes.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 47:120. Conditions applicable to all solid waste permits.

RELATES TO: KRS 224.005 through 224.110, 224.830 through 224.888, 224.994

STATUTORY AUTHORITY: KRS Chapter 13A, 224.033, 224.842

NECESSITY AND FUNCTION: KRS Chapter 224 requires the cabinet to adopt rules and regulations for the management, processing or disposal of wastes. KRS 224.842 requires that persons engaging in the management, processing and disposal of waste obtain a permit. This chapter establishes the permitting standards for solid waste sites or facilities, the standards applicable to all solid waste sites or facilities, and the standards for certification of operators. An overview of the permit program is found in Section 1 of 401 KAR 47:080. This regulation sets forth the conditions applicable to all permits.

Section 1. Conditions Applicable to all Permits. All conditions applicable to all permits shall be incorporated into the permits either expressly or by reference.

(1) Duty to comply. The owner or operator shall comply with all conditions of the permit. Any permit noncompliance constitutes a violation of the appropriate Kentucky revised statute and is grounds for enforcement action; for revocation or modification; or for denial of a permit renewal application.

(2) Duty to reapply. If the owner or operator wishes to continue an activity regulated by the permit after the expiration date of the permit, the owner or operator shall apply for and obtain a new permit.

(3) Duty to halt or reduce activity. It shall not be a defense for an owner or operator in an enforcement action to claim necessity to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.

(4) Duty to mitigate. In the event of noncompliance with the permit, the owner or operator shall take all reasonable steps to minimize releases to the environment, and shall carry out such measures as are reasonable to prevent significant adverse impacts on human health and the environment.

(5) Proper operation and maintenance. The owner or operator shall at all times properly operate and maintain all facilities and systems of treatment and control which are installed or used by the owner or operator to achieve compliance with the conditions of the permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and process controls, including appropriate quality assurance procedures.

(6) Permit actions. The permit may be modified or revoked for cause. The filing of a request by the owner or operator for a permit modification, revocation, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

(7) Property rights. The permit does not convey any property rights or any exclusive

privilege.

(8) Duty to provide information. The owner or operator shall furnish the cabinet any information which the cabinet shall request to determine whether cause exists for modifying, revoking, or terminating the permit, or to determine compliance with the permit or any provision of KRS Chapter 224 or 401 KAR Chapters 47 and 48. The owner or operator shall also furnish to the cabinet upon request copies of records required to be kept by the permit.

(9) Inspection and entry. The owner or operator shall allow the cabinet or its authorized representative to:

(a) Enter upon the owner's or operator's premises where a regulated facility or activity is located or conducted, or where records shall be kept under the conditions of the permit;

(b) Have access to and copy at reasonable times any records that shall be kept under the conditions of the permit;

(c) Inspect any facility's equipment including monitoring and control equipment, practices, or operations regulated or required under the permit; and

(d) Sample or monitor, for the purposes of assuring permit compliance or determining compliance with any provision of KRS Chapter 224 or 401 KAR Chapters 47 and 48, any substances or parameters at any location.

(10) Signatory requirement. All applications, reports, or information submitted to the cabinet shall be signed and certified in accordance with Section 7 of 401 KAR 47:160.

(11) Authorization to operate. For a new solid waste site or facility, the owner or operator shall not commence storage, treatment or disposal of solid waste; and for a facility being modified the owner or operator shall not manage, process or dispose of solid waste in the modified portion of the facility until:

(a) The owner or operator has submitted to the cabinet, by certified mail or hand delivery, a letter signed by the owner or operator and a professional engineer registered in Kentucky stating that the facility has been constructed or modified in compliance with the permit; and

(b) The cabinet has inspected the modified or newly constructed facility, issued any public notice required in 401 KAR 47:140, and issued a solid waste permit or permit modification.

(12) Transfers. The permit is not transferable to any person without prior approval of the cabinet. New owners or operators shall submit a complete permit application to the cabinet. After the cabinet approves the new permit application and issues the new permit in the name of the new owner or operator and incorporates such other requirements as may be necessary under the appropriate statute, the existing permit shall be revoked.

(13) Monitoring reports. Monitoring results shall be reported at the intervals specified in the approved application.

(14) Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, requirements contained in any compliance schedule of the permit shall be submitted no later than fourteen (14) days following each scheduled date.

(15) Annual and quarterly reports. An annual or quarterly report shall be submitted covering facility activities during the specified reporting period as required in the permit.

(16) Other information. Where the owner or operator fails to submit any relevant facts in a permit application, or submits incorrect information in a permit application or in any report to the cabinet, he shall promptly submit such facts or correct information.

Section 2. Establishing Permit Conditions. In addition to conditions required for all permits in Section 1 of this regulation, the cabinet shall establish conditions on a case-by-case basis in permits under 401 KAR 47:100, 401 KAR 47:110, and 401 KAR 47:130. The cabinet may incorporate applicable requirements of the Kentucky solid waste management regulations directly into the permit or establish other permit conditions that are based on these regulations. Each permit issued under KRS 224.835 and 224.842 shall contain terms and conditions as the cabinet determines necessary to protect human health and the environment.

FRANK DICKERSON, Commissioner
CARL H. BRADLEY, Secretary
APPROVED BY AGENCY: January 9, 1990
FILED WITH LRC: January 15, 1990 at 9 a.m.
PUBLIC HEARING: A public hearing to receive comments on this proposed regulation will be conducted February 22, 1990 at 10 a.m. (EDT), in the first floor auditorium of the New State Office Building, High and Clinton Streets, Frankfort, Kentucky. Persons interested in attending this public hearing shall notify in writing at least five days prior to the hearing: David W. Morgan, Division of Waste Management, Frankfort Office Park, 18 Reilly Road, Frankfort, Kentucky 40601. Persons wishing to submit written comments without attending the hearing may do so, if the written comments are received in the Frankfort office of the Department for Environmental Protection by 4:30 p.m.(EDT) on February 22, 1990.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Susan C. Bush, Director

(1) Type and number of entities affected: The proposed regulation will affect the solid waste owners and operators who manage, process or dispose of solid waste. There are 220 such facilities in the state.

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

1. First year: The proposed regulation restructures and clarifies present regulations. There will be no direct or indirect costs or savings to those affected.

2. Continuing costs or savings: There are no continuing costs or savings.

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors which will increase or decrease costs.

(b) Reporting and paperwork requirements: There are no reporting or paperwork requirements associated with this proposed regulation.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: There are no direct or indirect costs or savings on the promulgating administrative body.

2. Continuing costs or savings: There are no continuing costs or savings.

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 or paperwork requirements associated with this proposed regulation.

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: The proposed regulation clarifies the conditions applicable to all permits.

Alternative: 1. Less stringent: Less stringent alternatives are not possible. 40 CFR Part 257 criteria establish minimum standards with which the state must comply.

2. More stringent: More stringent alternatives were not considered as the proposed regulation adequately protects human health and the environment.

3. Present proposal: The present proposal clarifies and restructures present regulations and does not constitute a change in policy.

(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 conflicting, overlapping or duplicative.

(a) Necessity of proposed regulation if in conflict: There is no conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no conflict.

(6) Any additional information or comments: There is no additional information or comments.

TIERING: Was tiering applied? Yes. This proposed regulation was tiered to apply to individuals who manage, process, or dispose of solid waste. The regulations of 401 KAR Chapters 47 and 48 use multiple tiering systems. Permit-by-rule in 401 KAR 47:150, and granted permit-by-rule in 401 KAR 47:110 give certain practices and management activities a method of avoiding full permits. Emergency permits and research, development and demonstration permits in 401 KAR 47:150 provide permitting mechanisms for certain situations. The solid waste landfills (contained, residual and construction/demolition debris) and the 3 classes of landfarming provide for a tiering mechanism based on the type and quality of the waste received.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 40 CFR Parts 256 and 257 is the federal statute constituting the federal mandate. These parts supply the environmental performance standards as well as the operating criteria for solid waste disposal facilities and practices. Under a 1984 amendment to the Resource Conservation and Recovery Act, the U.S. EPA was required to revise their existing solid waste regulations for facilities receiving household hazardous wastes or hazardous wastes from persons who generate less than 220 pounds per month. The federal law specifies in Section 4010(c) that, at a minimum, the revisions shall include groundwater monitoring to detect contamination, establish criteria for the acceptable location of new or existing facilities, and provide for corrective action as appropriate. On August 30, 1988, the federal government proposed revisions to the existing solid waste regulations. If the administrator of the U.S. EPA determines that a state has not adopted an adequate permit the EPA may enforce the revised federal criteria at facilities that may receive household hazardous wastes and hazardous wastes from persons who generate less than 220 pounds per month.

2. State compliance standards. KRS 224.842 requires persons engaging in management, processing or disposal of solid waste to obtain a permit. KRS Chapter 224 is the environmental protection authority for the Commonwealth of Kentucky. The proposed regulation establishes the conditions applicable to all solid waste permits. The proposed regulation restructures and clarifies existing regulations and does not constitute a change in policy. The federal law requires states to adopt a permitting procedure but the proposed federal regulation does not adopt a federal standard. This proposed regulation continues the current state procedures while drawing procedural language from the federal permitting regulations.

3. Minimum or uniform standards contained in the federal mandate. 40 CFR Part 257 establishes minimum standards necessary to ensure that no reasonable probability of adverse effects on health or the environment will result from solid waste disposal facilities or practices.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The proposed regulation does not impose stricter requirements or additional or different responsibilities or requirements, than those imposed by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The proposed regulation does not impose stricter standards or additional or different responsibilities or requirements.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 47:130. Changes to solid waste permits; expiration of solid waste permits.

RELATES TO: KRS 224.005 through 224.110, 224.830 through 224.888, 224.994

STATUTORY AUTHORITY: KRS Chapter 13A, 224.033, 224.842

NECESSITY AND FUNCTION: KRS Chapter 224 requires the cabinet to adopt rules and regulations for the management, processing, or disposal of wastes. KRS 224.842 requires that persons engaging in the management, processing, and disposal of waste obtain a permit. This chapter establishes the permitting standards for solid waste sites or facilities, the standards applicable to all solid waste sites or facilities, and the standards for certification of operators. An overview of the permit program is found in Section 1 of 401 KAR 47:080. This regulation sets forth the requirements for changes to permits and expiration of permits.

Section 1. Transfer of Permits. A permit is not transferable to any person without prior approval of the cabinet. New owners or operators shall submit a complete permit application to the cabinet. After a new permit has been issued to incorporate the new owners or operators, the cabinet shall revoke the existing permit.

Section 2. Major Modification or Revocation of Permits. (1) When the cabinet receives any information (for example, if the cabinet inspects the facility, receives information submitted by the permittee as required in the permit under Section 1 of 401 KAR 47:120, receives a request for modification or revocation under Section 2 of 401 KAR 47:140, or conducts a review of the permit file), the cabinet shall determine whether or not one (1) or more of the causes for modification or revocation exist as listed in subsection (2) of this section and Sections 3 and 4 of this regulation. If cause exists, the cabinet shall modify or revoke the permit accordingly, and shall request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened. If a permit is revoked, the owner or operator may reapply. If cause does not exist, the cabinet shall not modify or revoke the permit. If a permit modification satisfies the criteria in Section 3 of this regulation for minor modifications, the permit shall be modified without a notice to the public. Otherwise, a proposed permit shall be prepared and procedures in 401 KAR 47:140 followed.

(2) Causes for modification. Paragraphs (a) through (e) of this subsection are causes for modification but not revocation of permits by the cabinet.

(a) Alterations. There are material and substantial alterations or additions to the permitted solid waste site or facility or activity that occurred after permit issuance and which justify the application of permit conditions that are different or absent in the existing permit.

(b) Information. The cabinet has received new information.

(c) Compliance schedules. The cabinet determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, materials, shortage, or other events over which the permittee has little or no control and for which there is no reasonably available remedy (see also Section 3 of this regulation on minor modifications).

(d) The cabinet shall modify a permit:

1. When modification of a closure plan is required under 401 KAR Chapter 48;

2. When the cabinet receives notification of expected closure and finds that any of the previous granted permit conditions are no longer warranted;

3. When the cabinet adjusts the level of financial responsibility required;

4. When the corrective action program specified in the permit under 401 KAR Chapter 48 has not brought the regulated unit into compliance with the groundwater protection standards within a reasonable period of time;

5. To include a monitoring program meeting the requirements of 401 KAR 48:300;

6. When a permit requires a monitoring plan under Section 401 KAR 48:300, but monitoring data collected prior to permit issuance indicate that the facility is exceeding the groundwater protection standard;

7. To include conditions applicable in new or amended standards or regulations;

8. When modification is necessary to protect human health or the environment; or

9. To include conditions applicable as a result of a hearing or enforcement action as specified in 401 KAR Chapter 40.

(e) Notwithstanding any other provision in this section, when a permit is reviewed by the cabinet, the cabinet shall modify the permit as necessary to assure that the facility continues to comply with the currently applicable requirements in 401 KAR Chapters 47 and 48.

Section 3. Minor Modifications of Permits. Upon the request of the permittee, and receipt of an administrative and technically complete submission to the cabinet, the cabinet may modify a permit to make the corrections or allowances for changes in the permitted activity listed in this section, without following the procedures of 401 KAR 47:140. Any permit modification not processed as a minor modification under this section shall be considered a major change and shall require a 401 KAR 47:140 public notice prior to approval. A determination may be made by the cabinet upon filing of the modification application that the modification requested is a major modification. Minor modifications shall only:

(1) Correct typographical errors;

(2) Require more frequent monitoring or reporting by the permittee;

(3) Change the lists of site operational equipment, operating procedures and sequence of filing;

(4) Change estimates of expected year of closure or schedules for final closure under 401 KAR Chapter 48;

(5) Add or delete nonhazardous waste or a geographic area that is a source of solid waste accepted at the facility that does not reduce the facility life to less than five (5) years design capacity. This provision does not include wastes that have been listed as a hazardous waste and have been subsequently delisted or hazardous wastes that are treated to be nonhazardous waste.

(6) Provide for a one (1) time vertical expansion that does not increase the life of the site by more than two (2) years and is needed for drainage improvement;

(7) Provide for modifications to leachate collection systems, methane gas systems, groundwater monitoring, sediment ponds or dust control; or

(8) Authorize the use of areas for operation as amendments to operating permits.

Section 4. Revocation of Permits. (1) The cabinet may revoke a permit during its term or deny a permit renewal application for the following causes:

(a) Noncompliance by the permittee with any condition of the permit;

(b) The permittee's failure in the application or during the permit issuance process to disclose all relevant facts, or the permittee's misrepresentation of any relevant facts at any time;

(c) A determination that the permitted activity endangers human health or the environment and can only be regulated to

acceptable levels by permit modification or revocation;

(d) A violation of any requirement of KRS Chapter 224 or the respective regulations promulgated pursuant thereto; or

(e) The cabinet has received notification that a facility is being transferred to another person.

(2) The cabinet shall follow the applicable procedures in this regulation and in 401 KAR 47:140 and 401 KAR Chapter 40 in revoking any permit under this section.

Section 5. Termination of Permits. A permit shall automatically terminate on the expiration date unless the cabinet has reissued the permit.

Section 6. Duration of Permits. (1) Term of permit. Solid waste site or facility construction and construction/operation permits shall be effective for a fixed term not to exceed five (5) years.

(2) Modification of term of permit. Except as provided in Section 7 of this regulation, the term of a permit shall not be extended by modification beyond the maximum duration specified in subsection (1) of this section.

(3) Reduced term of permit. The cabinet may issue any permit for a duration that is less than the full allowable term under subsection (1) of this section.

Section 7. Continuation of Expiring Permits. (1) The conditions of an expired permit shall continue in force at the discretion of the cabinet in order to ensure the safe disposal of waste until the effective date of a new permit if:

(a) The permittee has submitted a timely application for renewal of a permit under 401 KAR 47:160 through 401 KAR 47:190. Such applications shall be complete and the applicant shall have paid the appropriate fees due under 401 KAR 47:060 or 401 KAR 47:090;

(b) The cabinet, through no fault of the permittee, does not issue a new permit with an effective date on or before the expiration date of the previous permit (for example, when issuance is impracticable due to time or resource constraints); and

(c) Where appropriate on-site engineering oversight is assured.

(2) Effect. Permits continued under this section remain fully effective and enforceable.

(3) Enforcement. When the permittee is not in compliance with the conditions of the expiring or expired permit, the cabinet may choose to do any or all of the following:

(a) Initiate enforcement action based upon the permit which has been continued;

(b) Issue a notice of intent to deny the new permit under Section 3 of 401 KAR 47:140. If the permit is denied, the owner or operator shall cease the activities authorized by the continued permit or be subject to enforcement action for operating without a permit;

(c) Issue a new permit with appropriate conditions; or

(d) Take other actions authorized by 401 KAR Chapters 47 and 48.

FRANK DICKERSON, Commissioner
CARL H. BRADLEY, Secretary
APPROVED BY AGENCY: January 9, 1990
FILED WITH LRC: January 15, 1990 at 9 a.m.

PUBLIC HEARING: A public hearing to receive comments on this proposed regulation will be conducted February 22, 1990 at 10 a.m. (EDT), in the first floor auditorium of the New State Office Building, High and Clinton Streets, Frankfort, Kentucky. Persons interested in attending this public hearing shall notify in writing at least five days prior to the hearing: David W. Morgan, Division of Waste Management, Frankfort Office Park, 18 Reilly Road, Frankfort, Kentucky 40601. Persons wishing to submit written comments without attending the hearing may do so, if the written comments are received in the Frankfort office of the Department for Environmental Protection by 4:30 p.m.(EDT) on February 22, 1990.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Susan C. Bush, Director

(1) Type and number of entities affected: The proposed regulation will affect all sites or facilities engaging in the managing, processing, or disposal of solid waste.

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

1. First year: The proposed regulation restructures and clarifies existing regulations and does not constitute a change in policy. There will be no direct or indirect costs or savings to those affected.

2. Continuing costs or savings: There are no continuing costs or savings.

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors which will increase or decrease costs.

(b) Reporting and paperwork requirements: There are no reporting or paperwork requirements associated with this proposed regulation.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: There are no direct or indirect costs or savings to the promulgating administrative body.

2. Continuing costs or savings: There are no continuing costs or savings.

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 or paperwork requirements associated with this proposed regulation.

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: KRS 224.842 requires persons engaging in managing, processing, or disposal of waste to obtain a permit. The proposed regulation sets forth the requirements for changes to solid waste permits and expiration of solid waste permits.

Alternative: 1. Less stringent: Less stringent alternatives are not possible. 40 CFR Part 257 criteria establish minimum standards with which the state must comply.

2. More stringent: More stringent alternatives were not considered as the proposed regulation adequately protects human health and the environment.

3. Present proposal: The present proposal

clarifies and restructures present regulations and does not constitute a change in policy.

(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 conflicting, overlapping or duplicative.

(a) Necessity of proposed regulation if in conflict: There is no conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no conflict.

(6) Any additional information or comments: There is no additional information or comments.

TIERING: Was tiering applied? Yes. This proposed regulation applies only to sites or facilities that manage, process or dispose of solid waste. The regulations of 401 KAR Chapters 47 and 48 use multiple tiering systems. Permit-by-rule in 401 KAR 47:150, and granted permit-by-rule in 401 KAR 47:110 give certain practices and management activities a method of avoiding full permits. Emergency permits and research, development and demonstration permits in 401 KAR 47:150 provide permitting mechanisms for certain situations. The 3 solid waste landfills (contained, residual and construction/demolition debris) and the 3 classes of landfarming provide for a tiering mechanism based on the type and quality of the waste received.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Subtitle D of the Resource Conservation and Recovery Act (RCRA) is the federal statute constituting the federal mandate. 40 CFR Part 257 also supplies criteria for permitting of solid waste facilities and practices. Under a 1984 amendment to the Resource Conservation and Recovery Act, the U.S. EPA was required to revise their existing solid waste regulations for facilities receiving household hazardous wastes or hazardous wastes from persons who generate less than 220 pounds per month. The federal law specifies in Section 4010(c) that, at a minimum, the revisions shall include groundwater monitoring to detect contamination, establish criteria for the acceptable location of new or existing facilities, and provide for corrective action as appropriate. On August 30, 1988, the federal government proposed revisions to the existing solid waste regulations. If the administrator of the U.S. EPA determines that a state has not adopted an adequate permit the EPA may enforce the revised federal criteria at facilities that may receive household hazardous wastes and hazardous wastes from persons who generate less than 220 pounds per month.

2. State compliance standards. KRS 224.842 requires persons engaging in managing, processing, or disposal of waste to obtain a permit. KRS Chapter 224 is the environmental protection authority for the Commonwealth of Kentucky. The proposed regulation sets forth the requirements for changes to solid waste permits and expiration of solid waste permits. The proposed regulation clarifies present regulations and does not constitute a change in policy. The federal law requires states to adopt a permitting procedure but the proposed federal regulations do not adopt a federal standard. This proposed regulation continues the current state procedures while drawing procedural language from the federal permitting regulations.

3. Minimum or uniform standards contained in the federal mandate. 40 CFR Part 257 and RCRA Subtitle D establish minimum standards necessary to ensure that no reasonable probability of adverse effects on health or the environment will result from solid waste disposal facilities or practices.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The proposed regulation does not impose stricter requirements or additional or different responsibilities or requirements than those imposed by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The proposed regulation does not impose stricter standards or additional or different responsibilities or requirements.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 47:140. Public information and permit issuance procedures.

RELATES TO: KRS 224.005 through 224.110, 224.830 through 224.889, 224.994

STATUTORY AUTHORITY: KRS Chapter 13A, 224.033, 224.842

NECESSITY AND FUNCTION: KRS Chapter 224 requires the cabinet to adopt rules and regulations for the management, processing, or disposal of wastes. KRS 224.842 requires that persons engaging in the management, processing, and disposal of waste obtain a permit. This chapter establishes the permitting standards for solid waste sites or facilities, the standards applicable to all solid waste sites or facilities, and the standards for certification of operators. An overview of the permit program is found in Section 1 of 401 KAR 47:080. This regulation sets forth permit issuance and public information procedures.

Section 1. Application for a Permit. (1) Any person who is required to have a solid waste site or facility permit under KRS Chapter 224 shall complete, sign and submit an application to the cabinet. Applications are not required for solid waste site or facility permits-by-rule specified in Section 1 of 401 KAR 47:150.

(2) The cabinet shall not begin the processing of a permit until the applicant has fully complied with the application requirements for that permit.

(3) Permit applications shall comply with the signature and certification requirements of Section 6 of 401 KAR 47:160.

(4) Upon completing the review, the cabinet shall notify the applicant in writing whether the application is complete or incomplete. If the application is incomplete, the cabinet shall list the information necessary to make the application complete. When the application is for an existing solid waste site or facility,

the cabinet shall specify in the notice of deficiency a date for submitting the necessary information. The cabinet shall notify the applicant when the application is complete after receiving this information.

(5) If an applicant fails or refuses to correct deficiencies in the application or submit additional information, the permit shall be denied and, if applicable, enforcement actions taken under the appropriate statutory provision.

(6) If the cabinet decides that a site visit is necessary for any reason in conjunction with the processing of an application, the applicant shall accompany the cabinet representative on a site visit upon request by the cabinet.

(7) The cabinet may require such additional information as it deems necessary for a final determination regarding the application.

Section 2. Modification or Revocation of Permits. (1) A permit for a solid waste site or facility may be modified, or revoked, either at the request of any interested person (including the permittee) or upon the cabinet's initiative. However, a permit shall only be modified or revoked for the reasons specified in Sections 2 and 4 of 401 KAR 47:130 and following the procedures of 401 KAR Chapter 40. All requests shall be in writing and shall contain facts or reasons supporting the request.

(2) If the cabinet decides the request is not justified, the cabinet shall send the requestor a brief written response giving a reason for the decision. Denials of requests for modification or revocation are not subject to public notice, comment, or public hearings. Written notice of the denial shall be given to the requestor and to the permittee.

(3) If the cabinet tentatively decides to modify a permit under Section 2 of 401 KAR 47:130, the cabinet shall prepare a proposed permit under Section 3 of this regulation incorporating the proposed changes. The cabinet may request additional information and, in the case of a modified permit, shall require the submission of an updated permit application if necessary. In the case of revoked permits, the cabinet shall require the submission of a new application to obtain a new permit.

(a) In a permit modification under this section, only those conditions to be modified shall be reopened when a new proposed permit is prepared. All other aspects of the existing permit shall remain in effect for the duration of the unmodified permit.

(b) When a permit is revoked, a new application may be submitted to the cabinet.

(c) Minor modifications as defined in Section 3 of 401 KAR 47:130 are not subject to the requirements of this section.

(4) If the cabinet tentatively decides to revoke a permit under Section 4 of 401 KAR 47:130, it shall issue a notice of intent to revoke. A notice of intent to revoke shall be subject to public notice. The public notice shall be issued by the cabinet and contain the information specified in Section 7(1)(a) through (d) of this regulation.

(5) All proposed permits (including notices of intent to revoke) prepared under Sections 3 through 5 of this regulation shall be based on the administrative record as outlined in Section 5 of this regulation.

(6) The cabinet may consider conformance with the solid waste management area plan(s) or requirements of the district or county as a basis for permit modification.

Section 3. Permit Issuance. (1) Once the technical application is complete, the cabinet shall tentatively decide whether to prepare a proposed permit or to deny the application. In making this determination the cabinet shall consider the requirements specified in the waste management regulations and in KRS 224.842.

(2) If the cabinet tentatively decides to deny the permit application, it shall issue a notice of intent to deny. A notice of intent to deny the permit application shall be subject to public notice. The public notice shall be issued by the cabinet and contain the information specified in Section 7(1)(a) through (i) of this regulation. The cabinet shall provide a thirty (30) day comment period commencing on the date the notice is published. If the cabinet's final decision reverses the tentative decision to deny the permit application, the cabinet shall withdrawn the notice of intent to deny and proceed to prepare a proposed permit under subsection (3) of this section.

(3) If the cabinet decides to prepare a proposed permit, the proposed permit shall contain the following information:

(a) The proposed design and specifications;

(b) Any conditions in accordance with Section 2 of 401 KAR 47:120; and

(c) The proposed permit shall be based on the administrative record outlined in Section 5 of this regulation.

(4) The cabinet may consider conformance with the solid waste management area plan(s) or requirements of the district or county as a basis for permit issuance.

(5) All proposed permits including permit major modifications prepared by the cabinet under this section shall be subject to public notice. The public notice shall be issued by the applicant and contain information specified in Section 7(1)(a) through (i) of this regulation. The cabinet shall provide a public comment period and give notice of the opportunity for a public hearing as required by KRS 224.855.

Section 4. Fact Sheet. (1) A fact sheet shall be prepared for every proposed permit for a solid waste facility which includes a contained landfill, or a research, development, and demonstration facility, and for every proposed permit that the cabinet finds is the subject of widespread public interest or raises major issues. The fact sheet shall briefly set forth the principal facts and the significant factual, legal, methodological and policy questions considered in preparing the proposed permit. The cabinet shall send this fact sheet to the applicant and, on request, to any other person.

(2) The fact sheet shall include, when applicable:

(a) A brief description of the type of facility or activity which is the subject of the proposed permit;

(b) The type and quantity of wastes which are proposed to be and are being stored, treated or disposed of;

(c) A brief summary of the basis for the proposed permit conditions including references to applicable statutory or regulatory provisions and appropriate supporting references to the administrative record required by Section 5 of

this regulation;
(d) Reasons why any requested variances or alternatives to required standards do or do not appear justified;
(e) A description of the procedures for reaching a final decision on the proposed permit including:
1. The beginning and ending dates of the comment period under Section 9 of this regulation and the address where comments shall be received;
2. Procedures for requesting a hearing and the nature of that hearing; and
3. Any other procedures including public participation in the final decision; and
(f) Name and telephone number of a person to contact for additional information.

Section 5. Administrative Record for Proposed Permits. (1) The provisions of a proposed permit prepared by the cabinet under Section 3 of this regulation shall be based on the administrative record.
(2) For preparing a proposed permit under Section 3 of this regulation, the administrative record shall consist of:
(a) The application, if required, and any supporting data furnished by the applicant;
(b) The proposed permit or notice of intent to deny the application or to revoke the permit;
(c) The fact sheet (see Section 4 of this regulation);
(d) All documents cited in the fact sheet; and
(e) Other documents contained in the supporting file for the proposed permit.
(3) Material readily available at the cabinet's office need not be physically included with the rest of the record as long as it is specifically referred to in the fact sheet. This includes published material that is generally available, and that is included in the administrative record.
(4) This section applies to all proposed permits when public notice was given after the effective date of these regulations.

Section 6. Public Information Process Overview. (1) The public information process may consist of five (5) phases. These phases include:
(a) A public notice;
(b) A special notice with executive summary;
(c) A public comment period;
(d) A public hearing; and
(e) An adjudicative hearing.
(2) The type of notice or hearing varies with each permit classification as well as the part of the application or modification being approved or denied by the cabinet. Sections 12 through 14 of this regulation shall provide the specific process for each permit type.

Section 7. Public Notice. The applicant or cabinet as specified in Sections 12 through 14 shall give public notice under KRS 224.855.
(1) Contents. Public notices issued under this chapter may contain the following information: (For specific notice requirements of each permit type, see Sections 12 through 14 of this regulation.)
(a) Name and address of the office processing the permit action for which notice is being given;
(b) Name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit;
(c) A brief description of the business conducted at the facility or activity described in the permit application;
(d) A description of the proposed location of the solid waste site or facility;
(e) Name, address and telephone number of a person from whom interested persons may obtain further information, including copies of the proposed permit, fact sheet and application;
(f) A brief description of the comment procedures required by Section 9 of this regulation and the time and place of any hearing (unless a hearing has already been scheduled) and other procedures by which the public may participate in the final permit decision;
(g) The location of the administrative record required by Section 5 of this regulation, the times at which the record shall be open for public inspection, and a statement that all data submitted by the applicant are available as part of the administrative record;
(h) The statements required in KRS 224.855; and
(i) Any additional information considered necessary or proper.
(2) Public notices may describe more than one (1) permit or permit action.
(3) Public notices shall be of a size to include not less than two (2) column widths for advertising and shall be in a display format.
(4) Methods. Public notices issued by the cabinet shall be distributed by the following methods:
(a) By mailing a copy of a notice to the following persons:
1. The applicant;
2. Any other agency that the cabinet knows has issued or is required to issue an environmental permit for the same facility or activity;
3. Federal and state agencies with jurisdiction over fish, shellfish, and wildlife resources, the Advisory Council on Historic Preservation, the state historic preservation officers, and other appropriate government authorities, including any other affected states;
4. Persons on a cabinet mailing list which has been compiled by notifying the public of the opportunity to be put on the mailing list through periodic publication. Individuals shall request in writing to be on the list;
5. Any unit of local government having jurisdiction over the area where the facility is proposed to be located;
6. Each state agency having any authority under state law with respect to the construction or operation of such facility; and
7. The owner(s) of all property adjacent to property to be used by the applicant for the proposed facility;
(b) Publication of a notice in a daily or weekly major local newspaper of general circulation as required by KRS 224.855(2) where the proposed site is located; and
(c) Any other method reasonably calculated to give actual notice of the action in question to the persons potentially affected by it, including press releases or any other forum or medium to elicit public participation.

Section 8. Special Notice/Executive Summary. A special notice in the form of an executive summary of the permit application shall be submitted to the county judge/executive or mayor of an urban-county government and members of the fiscal court or urban-county council of the county or urban-county government in which the

site or facility is or shall be located as specified in KRS 224.855.

Section 9. Public Comment Period. Public notice of a proposed permit, including notice of intent to modify or deny a solid waste permit application, shall allow at least thirty (30) days for public comment. During the public comment period, any interested person may submit written comments on the proposed permit and may request a public hearing if no hearing has already been scheduled, or may request an adjudicative hearing pursuant to KRS 224.855.

Section 10. Public Hearings. (1) The cabinet may hold a public hearing on the basis of request or when a significant degree of public interest exists concerning a solid waste site or facility permit decision. The cabinet at its discretion may hold a public hearing whenever such a hearing might clarify one (1) or more issues involved in the permit decision.

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

(3) Any person may submit oral or written statements and data. Reasonable limits may be set upon the time allowed for oral statement, and the submission of statements in writing may be required. The public comment period under Section 9 of this regulation shall automatically be extended to the close of any administrative hearing. The presiding officer may also extend the comment period by so stating at the hearing.

(4) A written transcript of the hearing shall be made available to any person upon payment of the actual cost of reproducing the original.

Section 11. Adjudicative Hearing. (1) The cabinet shall hold an adjudicative hearing as specified in KRS 224.855 and consistent with the requirements and provisions of KRS 224.081(2) whenever petition in opposition to a proposed permit determination and a request for an adjudicative hearing is received within thirty (30) days of public notice under Section 7 of this regulation. All other permitting determinations shall be subject to an adjudicative hearing only as provided in KRS 224.081(2).

(2) Whenever possible the cabinet shall schedule a hearing under this section at a location convenient to the population center nearest to the proposed facility provided the hearing location is in the same county as required by KRS 224.855.

Section 12. Public Information Process for Landfills. (1) Upon receipt of a notice of intent to apply for or modify a contained, residual, or construction/demolition debris landfill, the cabinet shall require the permit applicant to provide public notice as specified in KRS 224.855. The contents of this public notice shall include those items listed in Section 7(1)(a) through (d) of this regulation and any additional information considered necessary or proper by the cabinet.

(2) The cabinet shall issue a special notice in the form of an executive summary as outlined in Section 8 of this regulation when the administrative portion of the application is complete and again when review of the technical portion of the application begins. This may be combined into one (1) notice if these actions occur simultaneously.

(3) The cabinet shall require the applicant to provide public notice when review of the technical portion of the application begins. This notice shall be distributed as specified in KRS 224.855. The contents of this public notice shall include those items listed in Section 7(1)(a) through (d). The notice shall also state that the executive summary shall be available from the office of the county judge/executive or mayor of an urban-county government. The cabinet shall require any additional information considered necessary or proper.

(4) Once the cabinet has issued a proposed permit, the applicant shall issue a public notice pursuant to KRS 224.855. This notice shall also be distributed by the cabinet as specified in Section 7(4)(a) of this regulation. The contents of the public notice shall include those items listed in Section 7(1)(a) through (i). The cabinet shall make available a thirty (30) day comment period as specified in Section 9 of this regulation commencing with the date the notice is published. Interested parties may request a public hearing as specified in Section 10 of this regulation, submit written comments on the proposed permit and aggrieved parties may request an adjudicative hearing pursuant to KRS 224.081(2).

(5) A public notice shall be published by the cabinet when a notice of intent to deny a landfill application is issued. The public notice shall be distributed as specified in Section 7(4) of this regulation. The contents of the public notice shall include those items listed in Section 7(1)(a) through (i). The public comment period, public hearing and adjudicative hearing procedures of Sections 9 through 11 of this regulation shall be offered.

(6) A public notice shall be published by the cabinet upon the issuance of the operating permit. The public notice shall be distributed as specified in Section 7(4)(b) of this regulation. The contents of the public notice shall include those items listed in Section 7(1)(a) through (g) of this regulation.

(7) A public notice shall be published by the cabinet upon the renewal of a landfill permit. The public notice shall be distributed as specified in Section 7(4)(b) of this regulation. The contents of the public notice shall include those terms listed in Section 7(1)(a) through (g) of this regulation.

(8) The cabinet shall require the permittee to publish a public notice when a major permit modification has been requested and again when a proposed permit has been prepared by the cabinet. The permittee shall distribute and prepare the public notice pursuant to KRS 224.855. The cabinet shall distribute the notice as specified in Section 7(4) of this regulation.

Section 13. Public Information Process for Landfarming. The public information process for landfarming shall be followed as specified in 401 KAR 48:200.

Section 14. Public Information Process for Research, Development and Demonstration Permits. Once the cabinet has issued a proposed permit, the applicant of a research, development and demonstration permit shall publish a public notice pursuant to KRS 224.855. This notice shall be distributed by the cabinet as specified

in Section 7(4)(b) of this regulation. The contents of the public notice shall contain those items listed in Section 7(1)(a) through (i) of this regulation. The cabinet shall make available a thirty (30) day comment period as specified in Section 9 of this regulation commencing with the date the notice is published. Interested parties may request a public hearing as specified in Section 10 of this regulation, submit written comments on the proposed permit and aggrieved parties may request an adjudicative public hearing per KRS 224.081(2).

Section 15. Reopening of the Public Comment Period. (1) If any data, information or arguments submitted during the public comment period (including information or arguments that any condition of the proposed permit or permit denial is inappropriate) appear to raise substantial new questions concerning a permit, the cabinet may take one (1) or more of the following actions:

(a) Prepare a new proposed permit, appropriately modified, under Section 3 of this regulation;

(b) Reopen or extend the comment period under Section 9 of this regulation to provide interested persons an opportunity to comment on the information or arguments submitted.

(2) Comments filed during the reopened comment period shall be limited to the substantial new questions that caused its reopening. A public notice under Section 7 of this regulation shall define the scope of the reopening.

(3) The cabinet may also, in the circumstances described above, elect to hold further proceedings. This decision may be combined with any of the actions enumerated in subsection (1) of this section.

Section 16. Response to Comments. (1) At the time that any final permit decision is issued, the cabinet shall issue a response to comments. This response shall:

(a) Specify which provisions, if any, of the proposed permit have been changed in the final permit decision, and the reasons for the change; and

(b) Briefly describe and respond to all significant comments on the proposed permit raised during the public comment period, or during any public hearing.

(2) The response to comments shall be available to the public.

Section 17. Issuance and Effective Date of Permit. (1) After the close of the public comment period under Section 9 of this regulation on a proposed permit, the cabinet shall issue a final permit decision. For the purposes of this section, a final permit decision means a final decision to issue, deny, modify, revoke, or terminate a permit.

(2) A final permit decision shall become effective on the date issued by the cabinet.

Section 18. Past Performance Considered in Review. Past performance of the owner or operator may be considered in the review for issuance or denial of the permit application and in the determination of any requirement for specialized conditions.

FRANK DICKERSON, Commissioner
CARL H. BRADLEY, Secretary
APPROVED BY AGENCY: January 9, 1990
FILED WITH LRC: January 15, 1990 at 9 a.m.

PUBLIC HEARING: A public hearing to receive comments on this proposed regulation will be conducted February 22, 1990 at 10 a.m. (EDT), in the first floor auditorium of the New State Office Building, High and Clinton Streets, Frankfort, Kentucky. Persons interested in attending this public hearing shall notify in writing at least five days prior to the hearing: David W. Morgan, Division of Waste Management, Frankfort Office Park, 18 Reilly Road, Frankfort, Kentucky 40601. Persons wishing to submit written comments without attending the hearing may do so, if the written comments are received in the Frankfort office of the Department for Environmental Protection by 4:30 p.m.(EDT) on February 22, 1990.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Susan C. Bush, Director

(1) Type and number of entities affected: The proposed regulation will affect all sites or facilities engaging in the management, processing, or disposal of waste.

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

1. First year: The proposed regulation restructures and clarifies existing policy and procedures. There will be no direct or indirect costs or savings to those affected.

2. Continuing costs or savings: There are no continuing costs or savings.

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors which will increase or decrease costs.

(b) Reporting and paperwork requirements: There are no reporting or paperwork requirements associated with this proposed regulation.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: There are no direct or indirect costs or savings. The proposed regulation restructures and clarifies existing regulations and does not constitute a change in policy.

2. Continuing costs or savings: There are no continuing costs or savings.

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 or paperwork requirements associated with this proposed regulation.

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: KRS 224.842 requires persons engaging in management, processing, or disposal of waste to obtain a permit.

Alternative: 1. Less stringent: 40 CFR criteria establish minimum standards with which the state must comply.

2. More stringent: More stringent alternatives were not considered as the proposed regulation adequately protects human health and the environment.

3. Present proposal: The present proposal clarifies and restructures present regulations at 401 KAR 47:010 and does not constitute a change in policy.

(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: There is no conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no conflict.

(6) Any additional information or comments: There is no additional information or comments.

TIERING: Was tiering applied? Yes. The regulations of 401 KAR Chapters 47 and 48 use multiple tiering systems. Permit-by-rule in 401 KAR 47:150, and granted permit-by-rule in 401 KAR 47:110 give certain practices and management activities a method of avoiding full permits. Emergency permits and research, development and demonstration permits in 401 KAR 47:150 provide permitting mechanisms for certain situations. The 3 types of solid waste landfills (contained, residual and construction/demolition debris) and the 3 classes of landfarming provide for a tiering mechanism based on the type and quality of the waste received.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Subtitle D of the Resource Conservation and Recovery Act, as amended, is the federal statute constituting the federal mandate. 40 CFR Part 257 also supplies criteria for classification of solid waste disposal facilities and practices. Under a 1984 amendment to the Resource Conservation and Recovery Act, the U.S. EPA was required to revise their existing solid waste regulations for facilities receiving household hazardous wastes or hazardous wastes from persons who generate less than 220 pounds per month. The federal law specifies in Section 4010(c) that, at a minimum, the revisions shall include groundwater monitoring to detect contamination, establish criteria for the acceptable location of new or existing facilities, and provide for corrective action as appropriate. On August 30, 1988, the federal government proposed revisions to the existing solid waste regulations. If the administrator of the U.S. EPA determines that a state has not adopted an adequate permit the EPA may enforce the revised federal criteria at facilities that may receive household hazardous wastes and hazardous wastes from persons who generate less than 220 pounds per month.

2. State compliance standards. KRS 224.842 requires persons engaging in managing, processing, or disposal of waste to obtain a permit. KRS 224.842 requires persons engaging in management, processing, or disposal of solid waste to obtain a permit. KRS Chapter 224 is the environmental protection authority for the Commonwealth of Kentucky. The proposed regulation establishes the public information process for solid waste site or facility permits which are classified based on the waste managed and the facility type. The federal law requires states to adopt a permitting procedure but the proposed federal regulations do not adopt a federal standard. This proposed regulation continues the current state procedures while drawing procedural language from the federal permitting regulations.

3. Minimum or uniform standards contained in the federal mandate. 40 CFR Part 257 criteria establish minimum national performance standards necessary to ensure that no reasonable probability of adverse effects on health or the environment will result from solid waste disposal facilities or practices.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The proposed regulation does not impose stricter requirements or additional or different responsibilities or requirements than those imposed by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The proposed regulation does not impose stricter standards or additional or different responsibilities or requirements.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 47:150. Special types of permits.

RELATES TO: KRS 224.005 through 224.110, 224.830 through 224.889, 224.994

STATUTORY AUTHORITY: KRS Chapter 13A, 224.033, 224.842

NECESSITY AND FUNCTION: KRS Chapter 224 requires the cabinet to adopt rules and regulations for the management, processing, and disposal of wastes. KRS 224.842 requires that persons engaging in the management, processing, and disposal of waste obtain a permit. This chapter establishes the permitting standards for solid waste sites or facilities, the standards applicable to all solid waste sites or facilities, and the standards for certification of operators. An overview of the permit program is found in Section 1 of 401 KAR 47:080. This regulation sets forth the requirements for permits-by-rule, emergency permits and research, development and demonstration permits.

Section 1. Permit-by-rule. Notwithstanding any other provision of this chapter, the following disposal of certain solid wastes by a practice common to the industry shall be deemed to have a permit-by-rule provided the operation is not in violation of the applicable environmental performance standards of 401 KAR 47:030, does not present a threat of imminent hazard to human health or substantial environmental impact and if the following applicable conditions are met:

(1) Sawdust piles if:

(a) The pile is on the property of the generator; and

(b) The pile does not cause nonpoint pollution of surface water above the water quality standard specified in 401 KAR 5:031.

(2) Disposal of asphalt residue.

(3) Oil production brine pits and gas and oil drilling mud pits, if the operator:

(a) Has a KPDES or NPDES permit; and

(b) Complies with the conditions of the KPDES or NPDES permit.

(4) One (1) time disposal of waste

construction material if:
(a) Disposal occurs at the point of generation;
(b) Disposal occurs only during the period of construction;
(c) The wastes do not include any materials that contain leachable hazardous constituents or asbestos; and
(d) The wastes do not include packaging or putrescible wastes.
(5) Disposal of demolition waste on the property where demolition occurs during the period of demolition except for materials containing asbestos.
(6) Disposal of land clearing debris on the property where clearing occurred.
(7) Disposal of less than 100 tires, shredded tires in a single pile of less than one-fourth (1/4) acre, or tires actively used in agricultural operations.

Section 2. Emergency Permits. (1) Notwithstanding any other provision of this chapter, in the event the cabinet finds an imminent and substantial endangerment to human health or the environment, the cabinet may issue an emergency permit to allow temporary storage or disposal of solid waste for a nonpermitted facility, thus granting the nonpermitted facility an effective temporary solid waste site or facility permit. However, an emergency permit shall only be issued when the circumstances preclude the processing of a permit of appropriate classification, the wastes create an immediate obstacle to providing services to populated areas (utilities, transportation), and the permitted site would not create an endangerment to human health or the environment. Such permits may be for either temporary or permanent disposal.
(2) An emergency permit:
(a) Shall be oral or written. If oral, it shall be followed in five (5) days by a written emergency permit request;
(b) Shall not exceed ninety (90) days in duration;
(c) Shall clearly specify the solid wastes to be received, and the manner and location of treatment, storage, or disposal;
(d) May be unilaterally terminated by the cabinet at any time if the cabinet determines that termination is appropriate to protect human health or the environment;
(e) Shall incorporate to the extent possible and not inconsistent with the emergency situation, all applicable requirements of this chapter and 401 KAR Chapter 48;
(f) Shall specify that all remaining solid waste and residues are removed at the end of the term of the emergency permit to a properly permitted solid waste site or facility in order to be exempted from the technical and financial requirements of 401 KAR Chapter 48; and
(g) Shall specify that failure to comply with the conditions of the emergency permit shall be grounds for the cabinet to recover the cost of proper closure.

Section 3. Research, Development and Demonstration Permits. (1) The cabinet may issue a research, development and demonstration permit for any solid waste treatment or disposal facility which proposes to utilize an innovative and experimental solid waste technology or process for which permit standards for such experimental activity have not been promulgated under 401 KAR Chapter 48. Any permit shall include such terms and conditions as shall assure protection of human health and the environment. In issuing research, development and demonstration permits the cabinet shall:
(a) Provide for the construction of such facilities as necessary, and for operation of the facility for not longer than one (1) year unless renewed as provided in subsection (4) of this section;
(b) Provide for the receipt, storage and disposal by the facility of only those types and quantities of solid waste that the cabinet deems necessary for purposes of determining the efficiency and performance capabilities of the technology or process and the effects of such technology or process on human health and the environment; and
(c) Include such requirements as the cabinet deems necessary to protect human health and the environment including, but not limited to: monitoring, operation, financial responsibility, closure, remedial action, testing, and reporting.
(2) For the purpose of expediting review and issuance of permits under this section, the cabinet may, consistent with the protection of human health and the environment, modify or waive permit application and permit issuance requirements in 401 KAR Chapter 47 except that there may be no modification or waiver of provisions in KRS Chapter 224 regarding financial responsibility (including insurance) or of procedures regarding public notification.
(3) The cabinet may order an immediate termination of all operations at the facility at any time it is determined that termination is necessary to protect human health and the environment.
(4) Any permit issued under this section shall not be renewed more than three (3) times. Each such renewal shall be for a period of not more than one (1) year.

FRANK DICKERSON, Commissioner
CARL H. BRADLEY, Secretary
APPROVED BY AGENCY: January 9, 1990
FILED WITH LRC: January 15, 1990 at 9 a.m.
PUBLIC HEARING: A public hearing to receive comments on this proposed regulation will be conducted February 22, 1990 at 10 a.m. (EDT), in the first floor auditorium of the New State Office Building, High and Clinton Streets, Frankfort, Kentucky. Persons interested in attending this public hearing shall notify in writing at least five days prior to the hearing: David W. Morgan, Division of Waste Management, Frankfort Office Park, 18 Reilly Road, Frankfort, Kentucky 40601. Persons wishing to submit written comments without attending the hearing may do so, if the written comments are received in the Frankfort office of the Department for Environmental Protection by 4:30 p.m.(EDT) on February 22, 1990.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Susan C. Bush, Director
(1) Type and number of entities affected: The proposed regulation will affect all sites or facilities engaging in the management, processing, or disposal of solid waste.
(a) Direct and indirect costs or savings to those affected:
1. First year: The proposed regulation restructures and clarifies existing policy and

procedures. There will be no direct or indirect costs or savings to those affected.

2. Continuing costs or savings: There are no continuing costs or savings.

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors which will increase or decrease costs.

(b) Reporting and paperwork requirements: There are no reporting or paperwork requirements associated with this proposed regulation.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: There are no direct or indirect costs or savings. The proposed regulation restructures and clarifies existing regulations and does not constitute a change in policy.

2. Continuing costs or savings: There are no continuing costs or savings.

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 or paperwork requirements associated with this proposed regulation.

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: KRS 224.842 requires persons engaging in management, processing, or disposal of waste to obtain a permit.

Alternative: 1. Less stringent: 40 CFR Part 257 criteria establish minimum standards with which the state must comply.

2. More stringent: More stringent alternatives were not considered as the proposed regulation adequately protects human health and the environment.

3. Present proposal: The present proposal clarifies and restructures present regulations at 401 KAR 47:020 and does not constitute a change in policy.

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

(a) Necessity of proposed regulation if in conflict: There is no conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no conflict.

(6) Any additional information or comments: There is no additional information or comments.

TIERING: Was tiering applied? Yes. The regulations of 401 KAR Chapters 47 and 48 use multiple tiering systems. Permit-by-rule in 401 KAR 47:150, and granted permit-by-rule in 401 KAR 47:110 give certain practices and management activities a method of avoiding full permits. Emergency permits and research, development and demonstration permits in 401 KAR 47:150 provide permitting mechanisms for certain situations. The 3 types of solid waste landfills (contained, residual and construction/demolition debris) and the 3 classes of landfarming provide for a tiering mechanism based on the type and quality of the waste received.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Subtitle D of the Resource Conservation and Recovery Act, as amended, is the federal statute constituting the federal mandate. 40 CFR Part 257 also supplies criteria for classification of solid waste disposal facilities and practices. Under a 1984 amendment to the Resource Conservation and Recovery Act, the U.S. EPA was required to revise their existing solid waste regulations for facilities receiving household hazardous wastes or hazardous wastes from persons who generate less than 220 pounds per month. The federal law specifies in Section 4010(c) that, at a minimum, the revisions shall include groundwater monitoring to detect contamination, establish criteria for the acceptable location of new or existing facilities, and provide for corrective action as appropriate. On August 30, 1988, the federal government proposed revisions to the existing solid waste regulations. If the administrator of the U.S. EPA determines that a state has not adopted an adequate permit the EPA may enforce the revised federal criteria at facilities that may receive household hazardous wastes and hazardous wastes from persons who generate less than 220 pounds per month.

2. State compliance standards. KRS 224.842 requires persons engaging in management, processing, or disposal of solid waste to obtain a permit. KRS Chapter 224 is the environmental protection authority for the Commonwealth of Kentucky. The proposed regulation establishes special types of solid waste site or facility permits which are classified based on the waste managed and the facility type. The federal law requires states to adopt a permitting procedure but the proposed federal regulations do not adopt a federal standard. This proposed regulation continues the current state procedures while drawing procedural language from the federal permitting regulations.

3. Minimum or uniform standards contained in the federal mandate. 40 CFR Part 257 criteria establish minimum national performance standards necessary to ensure that no reasonable probability of adverse effects on health or the environment will result from solid waste disposal facilities or practices.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The proposed regulation does not impose stricter requirements or additional or different responsibilities or requirements than those imposed by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The proposed regulation does not impose stricter standards or additional or different responsibilities or requirements.

NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 47:160. Application procedures.

RELATES TO: KRS 224.005 through 224.110, 224.830 through 224.886, 224.994
STATUTORY AUTHORITY: KRS Chapter 13A, 224.033, 224.842
NECESSITY AND FUNCTION: KRS Chapter 224 requires the cabinet to adopt rules and regulations for the management, processing or disposal of solid wastes. KRS 224.842 requires that persons engaging in the management, processing and disposal of waste obtain a permit. This chapter establishes the permitting standards for solid waste sites or facilities, the standards applicable to all waste sites or facilities, and the standards for certification of operators. An overview of the permit program is found in Section 1 of 401 KAR 47:080. This regulation sets forth the requirements for application procedures.

Section 1. General Application Requirements. (1) Permit application. A permit application consists of three (3) parts: notice of intent to apply for a solid waste permit; administrative application; and technical application. Any person who is required to have a permit (including new applicants and permittees with expiring permits) shall complete, sign and submit an application to the cabinet as described in 401 KAR 47:170 through 401 KAR 47:190 and 401 KAR Chapter 48.

(2) Completeness. The cabinet shall not issue a permit before receiving a complete application for a permit except for permits-by-rule or emergency permits. An application for a permit is complete when the cabinet receives an application, including any supplemental information, which shall be completed to the satisfaction of the cabinet.

(3) Information requirements. All applicants for permits shall provide the applicable information in compliance with 401 KAR 47:170 through 401 KAR 47:190 and 401 KAR Chapter 48 to the cabinet, using the application forms provided by the cabinet.

(4) Number of copies.

(a) For the purpose of reviews, two (2) original copies of the application shall be submitted to the cabinet. The application shall be compiled such that it conforms to an eight and one-half (8.5) by eleven (11) inch document. The applicant shall submit two (2) rolled sets of full scale engineering drawings and one (1) set of one-half (0.5) scale engineering drawings.

(b) For issuance of the permit, the applicant shall provide one (1) original application and three (3) copies, incorporating all changes, bound such that they conform to an eight and one-half (8.5) by eleven (11) inch document. The applicant shall also submit the following sets of engineering drawings:

1. Two (2) full scale sets folded to eight and one-half (8.5) by eleven (11) inches;
2. Two (2) full scale sets rolled;
3. Two (2) one-half (0.5) scale sets.

Section 2. Existing Solid Waste Sites or Facilities and Granted Permits-by-rule. (1) Any time after promulgation of the appropriate technical regulatory requirements, the owner or operator of a solid waste site or facility with a granted permit-by-rule may be required to submit an administrative and technical application. Any owner or operator shall be allowed at least six (6) months from the date of request to submit the administrative and technical application. Any owner or operator of a solid waste site or facility with a granted permit-by-rule may voluntarily submit the administrative and technical application at any time.

(2) Failure to furnish a requested administrative and technical application on time, or to furnish in full the information required by the administrative and technical application, is grounds for revocation of the granted permit-by-rule.

(3) Owners or operators of solid waste sites or facilities in existence on the effective date of this regulation which close under a granted permit-by-rule without submitting an administrative and technical application shall, at a minimum, comply with the corrective action requirements in 401 KAR 48:300.

Section 3. New Solid Waste Sites or Facilities. (1) No person shall begin physical construction of a new solid waste site or facility without having submitted a permit application and received a solid waste permit.

(2) An applicant for a solid waste landfill or landfarming permit after the effective date of this regulation shall submit to the cabinet a notice of intent to apply for a solid waste permit which contains the information specified in 401 KAR 47:170 or 401 KAR 48:200 prior to submittal of an administrative or technical application.

(3) The applicant shall submit an administrative application for a solid waste site or facility in accordance with the approved notice of intent to apply for a solid waste permit and the implementation of the approved site investigation plan. The administrative application shall contain the information as specified in 401 KAR 47:180.

(4) The applicant shall submit a technical application in accordance with the approved administrative application and the requirements of 401 KAR 47:190 and Chapter 48.

(5) Upon approval by the cabinet for the applicant to submit a technical application, the site shall be designed in accordance with the approved conceptual design, any variances given preliminary approval, and the applicable requirements of 401 KAR 47:190 and 401 KAR Chapter 48.

(6) If at any time the cabinet determines that the proposed site cannot meet the requirements of 401 KAR Chapters 47 and 48, the cabinet may deny the permit.

Section 4. Issuance of a Solid Waste Site or Facility Permit. (1) The cabinet shall issue a construction permit if, after completing the review of a complete solid waste site or facility permit application, it finds that the applicant for the permit has met all the requirements for application and the requirements of KRS 224.855 and 401 KAR Chapters 47 and 48.

(2) The applicant shall maintain a construction permit in full force and effect until all facilities have been constructed and

approved by the cabinet, including closure of the facility.

(3) A construction/operation permit shall be issued by the cabinet when:

(a) The applicant notifies the cabinet, in writing, that construction has been completed;

(b) A representative of the cabinet inspects the site and verifies in writing that the site has been developed according to plans and that necessary equipment is available to the site;

(c) The required financial responsibility in 401 KAR 48:310 for closure has been established, by posting a bond or establishing an escrow account as required by KRS 224.846 in an amount determined by an approved closure plan and cost estimate; and

(d) The applicant submits a certification by an engineer registered in Kentucky that the site is constructed in accordance with the approved plans and specifications.

(4) The cabinet may issue a permit subject to special conditions which include, but are not limited to, types of wastes which may be accepted or disposed, source of waste, special operating conditions, schedules for compliance for corrective actions, and the issuance of other applicable permits of the cabinet.

Section 5. Expiration and Renewal of Permits. (1) The construction/operation permit shall be issued for no more than five (5) years. A shorter period may be specified. A permit-by-rule shall be perpetual until modified or revoked by the cabinet. A granted permit-by-rule shall be perpetual until modified or revoked by the cabinet unless a specified term is provided in the permit as granted. The site may continue operation past the expiration date of a permit only if the owner or operator has complied with the requirements of Section 7 of 401 KAR 47:130.

(2) Any solid waste site or facility with an effective construction or construction/operation permit shall submit an application for renewal at least 180 days before the expiration date of the effective permit, unless permission for a later date has been granted in writing by the cabinet.

(3) Applications to renew construction and construction/operation permits will be subject to all requirements of 401 KAR Chapters 47 and 48 upon application renewal and shall be subject to public notice pursuant to KRS 224.855 and 401 KAR 47:140.

(4) The cabinet, in issuing a renewal, shall consider whether all conditions of the original permit and modifications of permit conditions by agreed order or otherwise have been met. The cabinet may request updated information necessary for reevaluating the permit's suitability for reissuance and impose additional or modified permit conditions when deemed appropriate.

Section 6. Signatures to Permit Applications and Reports. (1) Applications. All permit applications shall be signed as follows:

(a) For a corporation, by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:

1. A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation; or

2. The manager of one (1) or more manufacturing, production or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second-quarter 1980 dollars); or

(b) For a partnership or sole proprietorship, by a general partner or the proprietor, respectively; or

(c) For a municipality, state, federal, or other public agency, by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a federal agency includes:

1. The chief executive officer of the agency; or

2. A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

(2) Reports. All reports required by permits, and other information requested by the cabinet, shall be signed by a person described in subsection (1) of this section, or by a duly authorized representative of that person. A person shall be a duly authorized representative only if:

(a) The authorization is made in writing by a person described in subsection (1) of this section;

(b) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, superintendent, or position of equivalent responsibility (a duly authorized representative may thus be either a named individual or any individual occupying a named position); and

(c) The written authorization is submitted to the cabinet.

(3) Changes to authorization. If an authorization under subsection (2) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of subsection (2) of this section shall be submitted to the cabinet prior to or together with any reports, information, or applications to be signed by an authorized representative.

(4) Certification. Any person signing a document under subsections (1) or (2) of this section shall make the following certification: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for such violations."

Section 7. Confidentiality of Information. (1) Claims of confidentiality. Any information submitted to the cabinet pursuant to these regulations may be claimed as confidential by the submitter. Any such claim shall be asserted at the time of submission in accordance with KRS

224.035 and 400 KAR 1:060. If no claim is made in accordance with 400 KAR 1:060, the cabinet may make the information available to the public without further notice.

(2) Denial of claims of confidentiality. Claims that the name and address of any permit applicant or permittee is confidential shall be denied.

Section 8. General Contents and Application Specifications. (1) An application for a solid waste permit shall be on a form provided by the cabinet and contain:

(a) A letter detailing the desired cabinet action or response;

(b) A table of contents listing all sections of the submittal; and

(c) Appropriate maps, figures, photographs, and tables to clarify information or conclusions. All material shall be legible.

(2) All maps, plan sheets, drawings, isometrics, cross-sections, and aerial photographs shall meet the following requirements:

(a) Be of appropriate scale to clearly show all required detail;

(b) Be numbered, referenced in the narrative, titled, have a legend of all symbols used, contain horizontal and vertical scales (where applicable), and specify drafting or origination dates;

(c) Use uniform scales;

(d) Contain a north arrow;

(e) Use USGS data as a reference for all elevations;

(f) Contain a survey grid with maximum dimension of 200 square feet based on monuments established in the field which shall be referenced to state plan coordinates;

(g) Show original topography and the grid system on plan sheets showing construction, operation, or closure topography; and

(h) Show survey grid location and reference major plan sheets on all cross-sections.

FRANK DICKERSON, Commissioner
CARL H. BRADLEY, Secretary

APPROVED BY AGENCY: January 9, 1990

FILED WITH LRC: January 15, 1990 at 9 a.m.

PUBLIC HEARING: A public hearing to receive comments on this proposed regulation will be conducted February 22, 1990 at 10 a.m. (EDT), in the first floor auditorium of the New State Office Building, High and Clinton Streets, Frankfort, Kentucky. Persons interested in attending this public hearing shall notify in writing at least five days prior to the hearing: David W. Morgan, Division of Waste Management, Frankfort Office Park, 18 Reilly Road, Frankfort, Kentucky 40601. Persons wishing to submit written comments without attending the hearing may do so, if the written comments are received in the Frankfort office of the Department for Environmental Protection by 4:30 p.m.(EDT) on February 22, 1990.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Susan C. Bush, Director

(1) Type and number of entities affected: This proposed regulation will affect solid waste owners and operators who manage, process, or dispose of solid waste. There are 220 existing, permitted solid waste sites or facilities in the state.

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

1. First year: The proposed regulation restructures the solid waste permit application process. Permit applicants currently provide the cabinet with an application in one submission. The proposed regulation splits the application into three parts. This way the cabinet can review the design and make preliminary determinations. If the permit application and site design are flawed, savings will be realized by those affected. Expensive engineering costs incurred by owners or operators may be avoided.

2. Continuing costs or savings: There are no continuing costs or savings.

3. Additional factors increasing or decreasing costs (note any effects upon competition): The amount of savings realized will depend on the size of the site and type of waste handled.

(b) Reporting and paperwork requirements: The permit application process will be completely redesigned, including the forms. The application will be submitted in three parts instead of one.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: There is no direct or indirect cost or savings on the promulgating administrative body.

2. Continuing costs or savings: There are no continuing costs or savings.

3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: The permit application process will be completely redesigned, including the forms. The application will be submitted in three parts instead of one.

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: The proposed regulation sets forth the requirements for solid waste permit applications.

Alternative: 1. Less stringent: Less stringent alternatives were not considered. 40 CFR Part 257 criteria establish minimum standards with which the state must comply.

2. More stringent: More stringent alternatives were not considered as the proposed regulation adequately protects human health and the environment.

3. Present proposal: The present proposal restructures the permit application process for solid waste facilities. The new three-part process includes a notice of intent to apply, an administrative application, and a technical application.

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

(a) Necessity of proposed regulation if in conflict: There is no conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no conflict.

(6) Any additional information or comments: There are no additional comments.

TIERING: Was tiering applied? Yes. This

regulation only applies to solid waste facilities that manage, process or dispose of solid waste and must apply for a permit.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 40 CFR Parts 256 and 257 are the federal regulations constituting the federal mandate. These regulations supply the planning and permit standards for Kentucky's solid waste program. Under a 1984 amendment to the Resource Conservation and Recovery Act, the U.S. EPA was required to revise their existing solid waste regulations for facilities receiving household hazardous wastes or hazardous wastes from persons who generate less than 220 pounds per month. The federal law specifies in Section 4010(c) that, at a minimum, the revisions shall include groundwater monitoring to detect contamination, establish criteria for the acceptable location of new or existing facilities, and provide for corrective action as appropriate. On August 30, 1988, the federal government proposed revisions to the existing solid waste regulations. If the administrator of the U.S. EPA determines that a state has not adopted an adequate permit the EPA may enforce the revised federal criteria at facilities that may receive household hazardous wastes and hazardous wastes from persons who generate less than 220 pounds per month.

2. State compliance standards. KRS 224.842 requires persons engaging in management, processing, or disposal of solid waste to obtain a permit. KRS Chapter 224 is the environmental protection authority for the Commonwealth of Kentucky. The proposed regulation sets forth the requirements for application procedures to obtain a solid waste permit. The federal law requires states to adopt a permitting procedure but the proposed federal regulations do not adopt a federal standard. This proposed regulation continues the current state procedures while drawing procedural language from the federal permitting regulations.

3. Minimum or uniform standards contained in the federal mandate. The federal mandate establishes minimum national performance standards necessary to ensure that no reasonable probability of adverse effects on human health or the environment will result from solid waste disposal facilities or practices.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The proposed administrative regulation does not impose stricter requirements or additional or different responsibilities or requirements than those imposed by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The proposed regulation does not impose stricter standards or additional or different responsibilities or requirements.

NATURAL RESOURCES & ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 47:170. Notice of intent to apply for a solid waste permit.

RELATES TO: KRS 224.005 through 224.110, 224.830 through 224.888, 224.994
STATUTORY AUTHORITY: KRS Chapter 13A, 224.033, 224.842
NECESSITY AND FUNCTION: KRS Chapter 224 requires the cabinet to adopt rules and regulations for the management, processing or disposal of wastes. KRS 224.842 requires that persons engaging in the management, processing or disposal of waste obtain a permit. This chapter establishes the permitting standards for solid waste sites or facilities, the standards applicable to all solid waste sites or facilities, and the standards for certification of operators. An overview of the permit program is found in Section 1 of 401 KAR 47:080. This regulation sets forth the requirements for a notice of intent to apply for a solid waste permit.

Section 1. The Objectives and Requirements of the Notice of Intent to Apply for a Solid Waste Permit. All applicants for a solid waste permit or a granted permit-by-rule shall submit a notice of intent to apply for a solid waste permit that shall contain the information specified in Section 2 of this regulation. An applicant for a solid waste construction/demolition debris, contained, or residual landfill permit shall additionally submit the geotechnical information contained in Section 3 of this regulation. An applicant for a landfarming permit shall submit a notice of intent to apply for a solid waste permit in accordance with 401 KAR 48:200. The notice of intent to apply for a solid waste permit makes the cabinet aware of the potential location for a new site or site expansion; allows for review of existing information for suitability of the site relative to 401 KAR 47:030, 401 KAR 47:100, and 401 KAR Chapter 48; allows for review and approval of the proposed field investigations to supplement the existing information; allows the cabinet to determine the relationship of a proposed facility to the approved solid waste management area plan; and identifies any provisions of local government that pertain to the proposed facility. The notice of intent to apply contains information that is part of a complete application as required by KRS 224.855. The notice of intent to apply shall be accurate and complete at the time the cabinet makes its preliminary determination to issue a solid waste permit.

Section 2. Notice of Intent to Apply for a Solid Waste Permit. All notices of intent to apply for a solid waste permit shall include the following information:

(1) The management, processing, or disposal activities that require a solid waste permit under KRS Chapter 224;

(2) The name and mailing address of the proposed facility;

(3) The location, including latitude and longitude, of the center of the proposed waste disposal area(s);

(4) A list of the anticipated sources that generate wastes to be disposed at the site;
(5) For industrial facilities seeking a permit, the major applicable United States Department of Commerce Standard Industrial Classification Codes (SIC) and a description of the process in sufficient detail to allow determination of the materials used for production and the resultant chemical, physical, and hazardous character of the wastes. Hazardous waste characterization shall be consistent with 401 KAR Chapter 31;
(6) The operator's name, address, and telephone number;
(7) The name, address, and telephone number of the owner of the facility and a copy of the current deed to the property;
(8) Written directions to the site, using roads or highways, from a commonly known landmark;
(9) A general county highway map eleven (11) inches by fourteen (14) inches as published by the Kentucky Transportation Cabinet for the county(ies) showing the location of the proposed site;
(10) A description of the portions of the property to be used for waste management, processing, or disposal to include the area in acres, and anticipated peak capacity; and average rate of operation in cubic yards and tons per day;
(11) The source by county(ies) or facility(ies) as appropriate; the chemical, physical, and biological characteristics of the solid wastes to be managed at the facility; an estimate of the quantity of such wastes to be managed annually; and a general description of the methods of management for each waste;
(12) A listing of all permits or construction approvals anticipated, applied for, or received under any of the following programs that relate specifically to the proposed facility;
(a) Solid and hazardous waste management program under the Resource Conservation and Recovery Act and KRS Chapter 224 as specified in 401 KAR Chapters 30 through 48;
(b) Underground injection control program under the Safe Drinking Water Act; and
(c) NPDES program under the Clean Water Act, or the KPDES program under KRS Chapter 224 as specified in 401 KAR 5:050 through 5:085;
(13) For existing facilities, the following additional information shall be included:
(a) A drawing of the facility showing the location of all past, present, and future waste management areas;
(b) Photographs of the facility clearly delineating all existing structures, existing waste management areas, primary operating components, and sites of future waste management;
(c) A report describing the permitting and compliance history that relates to the existing sites and the owner's abilities to meet the environmental performance standards of 401 KAR 47:030. This report shall include the financial requirements to modify the site or facility to meet the environmental performance standards;
(d) A written description of compliance with the Prevention of Significant Deterioration (PSD) program under KRS Chapter 224 as specified in 401 KAR 51:017;
(e) A written description of compliance with the nonattainment program under KRS Chapter 224 and as specified in 401 KAR 51:052;
(f) Water quality certification as required by Section 401 of the Clean Water Act;
(g) All permits issued for mineral or coal extraction under the Surface Mining and Reclamation Act and KRS Chapter 350; and
(h) Other relevant environmental permits.
(14) A review of all published information and reconnaissance efforts pertaining to the proposed solid waste site or facility concerning threatened and endangered species and their critical habitat, historical properties, archeological sites, and wetlands; and
(15) Any other information that may be required to determine that the respected permit conforms to the requirements for solid waste sites or facilities.

Section 3. Geotechnical Information. The notice of intent to apply for a solid waste landfill permit shall contain a geotechnical report and site investigation plan including:
(1) An original current USGS seven and one-half (7.5) minute topographic quadrangle map showing the proposed waste boundaries and the property boundaries. The map shall show the following items that are located within one (1) mile of the proposed waste boundary:
(a) All surface water intake and discharge structures;
(b) All waste management, processing, or disposal facilities;
(c) All wells where fluids are injected underground; and
(d) All wells, springs, other surface water bodies, and drinking water wells listed in public records or otherwise known to exist;
(2) A review of all existing and published information pertaining to:
(a) Geology (karst features, structural features, and lithologic description);
(b) Hydrogeology of the groundwater resources and aquifers that shall be monitored;
(c) Hydrology (streams, wetlands and, other surface water bodies); and
(d) Caves and excavations including mined or quarried areas;
(3) A written plan addressing the determination of specific requirements of 401 KAR 47:030, 401 KAR 47:180, 401 KAR 48:050 through 401 KAR 48:080, and 401 KAR 48:170 as appropriate;
(4) A rock core boring plan that shall:
(a) Provide the data needed to evaluate the geologic features to the level of the first confining layer below the uppermost aquifer, and all geologic units hydraulically connected to the uppermost aquifer;
(b) Provide the data needed to determine the features of the liner system for the appropriate landfill class;
(c) Provide data to describe the site geology, the local aquifers that are hydrogeologically associated with the site, and the transmissivity of the aquifers; and
(d) Include relevant field data and appropriate test methods for determining hydrogeologic parameters;
(5) A soil boring plan that shall address the field and laboratory methods to be used. The soil boring plan shall include:
(a) The procedures to be used for field observations during solid borings and the criteria for selecting soils to be examined in the laboratory;
(b) An analysis plan for at least one (1) soil sample for each soil type within each soil

examination block. Each soil examination block shall be no larger than 1000 feet by 1000 feet;

(c) A procedure for all soil borings to be field classified by a person qualified to make distinctions on characteristics relative to the engineering classification of soils;

(d) A narrative describing the soils selected for laboratory examination. The method of testing shall be approved by the cabinet;

(6) Directions for closure of the rock core borings using grout and closure of the soil borings. The closure of the investigative excavations shall be acknowledged in writing by a qualified engineering geotechnical investigation professional;

(7) The methods and accuracy to be used to determine the location of the rock core borings and the soil borings during the subsurface investigation;

(8) A site geotechnical investigation map prepared at a scale of one (1) inch equals 400 feet showing the limits of all areas that may be used for soil borrow or waste disposal, site topography, and the USDA SCS soil group mapping. The site map shall have the following shown:

(a) A regular grid of 1,000 feet by 1,000 feet spacing;

(b) USDA SCS soil groups;

(c) Within each cell of the grid, the placement of at least one (1) soil boring for each soil type; and

(d) Additional soil boring locations such that the distance between any soil boring is no greater than 200 feet;

(9) A procedure for written documentation when the location of actual subsurface excavations (borings or corings) are adjusted in the field. The adjusted excavation locations shall achieve the criteria of this section and shall be subject to concurrence by the cabinet;

(10) Additional information for each classification of landfill as outlined below:

(a) For construction/demolition debris landfills, the geotechnical investigation map shall be annotated to show the proposed location of a minimum of two (2) rock core borings. The number and placement of the rock core borings shall be determined based on the size and geologic complexity of the site;

(b) For contained landfills, the geotechnical investigation map shall show the proposed location of a minimum of four (4) rock core borings. For sites with more than fifty (50) acres, an additional rock core boring shall be required for each additional twenty-five (25) acres or part thereof. The placement of the rock core borings shall be dependent on site geologic features of the proposed site. Additional rock core borings may be required for sites with complex geologic attributes; and

(c) For residual landfills, additional geotechnical information or samples may be required; and

(11) Other informational sources to be researched for site specific attributes. The sources shall include, at a minimum, surface mining permits, subsurface excavation and mining permits, and records of the Kentucky Geologic Survey and the Kentucky Department of Mines and Minerals.

FRANK DICKERSON, Commissioner
CARL H. BRADLEY, Secretary
APPROVED BY AGENCY: January 9, 1990
FILED WITH LRC: January 15, 1990 at 9 a.m.

PUBLIC HEARING: A public hearing to receive comments on this proposed regulation will be conducted February 22, 1990 at 10 a.m. (EDT), in the first floor auditorium of the New State Office Building, High and Clinton Streets, Frankfort, Kentucky. Persons interested in attending this public hearing shall notify in writing at least five days prior to the hearing: David W. Morgan, Division of Waste Management, Frankfort Office Park, 18 Reilly Road, Frankfort, Kentucky 40601. Persons wishing to submit written comments without attending the hearing may do so, if the written comments are received in the Frankfort office of the Department for Environmental Protection by 4:30 p.m.(EDT) on February 22, 1990.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Susan C. Bush, Director

(1) Type and number of entities affected: This proposed regulation will affect approximately 10 landfills per years that file applications for new or expanded sites.

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

1. First year: For landfill applicants, it is anticipated that a notice of intent to apply for a solid waste permit will cost approximately $5,000 to prepare. For other applicants, the cost should be approximately $500 to $1,000, depending on the complexity of the site for which the application is being prepared. In the first year, about 200 permits should be requested.

2. Continuing costs or savings: It is estimated that Kentucky will require about 100 acres each year for waste disposal. This will require as many as 5 landfill permits each year or about $25,000 in total cost to prepare the applications. Nonlandfill permits should number approximately 100 per year or $50,000 to $100,000 in cost.

3. Additional factors increasing or decreasing costs (note any effects upon competition): The complexity of a landfill site can cause the cost of preparing this application to increase or decrease.

(b) Reporting and paperwork requirements: The regulation would require approximately $1,000 to $5,000 to assemble the published literature and propose the drilling locations. However, the applicant currently spends this amount on the application. Applicants will be required to use agency developed forms.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: This rule will increase the number of facilities that are required to report the amount of waste managed. The additional staff resources needed will be one half person a year.

2. Continuing costs or savings: The staff required to sustain this regulation's implementation will be increased by one person year to a total needed of two person years.

3. Additional factors increasing or decreasing costs: Additional factors include the number of applications and the number of unsuitable sites proposed for a landfill.

(b) Reporting and paperwork requirements: This proposed regulation would require nonlandfill applicants to report on a routine basis.

(3) Assessment of anticipated effect on state

and local revenues: There is no expected impact on state and local revenue.

(4) Assessment of alternative methods; reasons why alternatives were rejected: The proposed regulation contains the requirement to have a "Notice of Intent to Apply" for a solid waste permit. The current voluntary preliminary application is used for about 60% of formal applications. The applicant only submits a topographic map with the proposed site circled. Any negative reactions to the site are merely advisory. Currently, expensive augering and drilling for soil borings and geologic corings proceed without formal cabinet review. Our only alternative is to reject the information on the formal application, necessitating redrilling.

Alternative: 1. Less stringent: For nonlandfill entities, less stringent would be to not require any notification. This leaves incinerators and transfer stations to operate without critical information on public health and environmental protection and waste quantities.

2. More stringent: Requiring more information than that proposed could cause unnecessary engineering and investigation costs on an unsuitable landfill site. The agency could require full permits of transfer stations or incinerators; however, the division is not prepared to respond to technical applications for these facilities with the staff resources available.

3. Present proposal: The proposed regulation requires enough information to assess preliminary site suitability for location. The rule requires submission of a drilling plan which, when approved and executed, would supply the necessary geologic data. The proposed rule requires permitting of other facilities needed for public health, environmental protection and reporting of waste quantities.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no statute, administrative regulation or government policy in conflict with the proposed regulation. Most of the information is currently required as a part of the formal solid waste application.

(a) Necessity of proposed regulation if in conflict: There is no conflicting requirements involved in this regulation.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no conflicting requirements involved in this regulation.

(6) Any additional information or comments: There are no additional comments or information.

TIERING: Was tiering applied? Yes. The regulations of 401 KAR Chapters 47 and 48 use multiple tiering systems. Permit-by-rule in 401 KAR 47:150, and granted permit-by-rule in 401 KAR 47:110 give certain practices and management activities a method of avoiding full permits. Emergency permits and research, development and demonstration permits in 401 KAR 47:150 provide permitting mechanisms for certain situations. The three solid waste landfills (contained, residual and construction/demolition debris) and the 3 classes of landfarming provide for a tiering mechanism based on the type and quality of the waste received.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Subtitle D of the Resource Conservation and Recovery Act, and 40 CFR Parts 256 and 257 discuss solid waste planning and establish minimum environmental criteria for disposal sites, respectively. Under a 1984 amendment to the Resource Conservation and Recovery Act, the U.S. EPA was required to revise their existing solid waste regulations for facilities receiving household hazardous wastes or hazardous wastes from persons who generate less than 220 pounds per month. The federal law specifies in Section 4010(c) that, at a minimum, the revisions shall include groundwater monitoring to detect contamination, establish criteria for the acceptable location of or existing facilities, and provide for corrective action as appropriate. On August 30, 1988, the federal government proposed revisions to the existing solid waste regulations. If the Administrator of the U.S. EPA determines that a state has not adopted an adequate permit the EPA may enforce the revised federal criteria at facilities that may receive household hazardous wastes and hazardous wastes from persons who generate less than 220 pounds per month.

2. State compliance standards. KRS Chapter 224 is the environmental authority for the Commonwealth of Kentucky. KRS 224.835 prohibits use of open dumps. 401 KAR 47:030 (proposed) sets out criteria that establish whether a site is an open dump. This proposed regulation sets out the first of several steps toward processing an application for a solid waste facility permit. The federal law requires states to adopt a permitting procedure but the proposed federal regulations do not adopt a federal standard. This proposed regulation continues the current state procedures while drawing procedural language from the federal permitting waste regulations.

3. Minimum or uniform standards contained in the federal mandate. The federal government leaves it to the states to issue solid waste permits under state authority. The federal government requires that each state eliminate open dumps through a solid waste disposal program under 40 CFR 256.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This proposed regulation will not impose stricter or additional requirements, as the federal government requires the state to eliminate open dumps. The "Notice of Intent to Apply" represents a portion of the solid waste disposal site application. The solid waste permitting process is designed to minimize the chances that a site will not meet 40 CFR 257 and become an open dump due to poor siting or design.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This proposed regulation will not impose stricter or additional requirements. The federal government requires the state to eliminate open dumps. The federal government has no permitting authority for solid waste sites.

NATURAL RESOURCES & ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 47:180. Contents of the administrative application for solid waste landfills.

RELATES TO: KRS 224.005 through 224.110, 224.830 through 224.888, 224.994
STATUTORY AUTHORITY: KRS Chapter 13A, 224.033, 224.842
NECESSITY AND FUNCTION: KRS Chapter 224 requires the cabinet to adopt rules and regulations for the management, processing or disposal of wastes. KRS 224.842 requires that persons engaging in the management, processing or disposal of waste obtain a permit. This chapter establishes the permitting standards for solid waste sites or facilities, the standards applicable to all solid waste sites or facilities, and the standards for certification of operators. An overview of the permit program is found in Section 1 of 401 KAR 47:080. This regulation sets forth the general contents of the administrative application for solid waste landfills excluding landfarming.

Section 1. Objective and General Requirements. The objectives of the administrative application for solid waste facilities are to allow the cabinet to determine if the proposed permit is consistent with local solid waste management area requirements and to review potential effects on human health and the environment if the proposed landfill is permitted. The information required for an administrative application for solid waste management facilities includes, but shall not be limited to, ownership documents, documentation of past performance, results from the geotechnical investigation specified in the approved notice of intent to apply for a solid waste permit, and the proposed design plan. The information provided shall be sufficient to allow the cabinet to evaluate the data detailing the site characteristics and the proposed design in the administrative application compared with the requirements for each type of site or facility, the waste to be disposed, and the ability to meet environmental performance standards. Information required in the administrative application shall be submitted to the cabinet in a format approved by the cabinet and signed in accordance with requirements in Section 6 of 401 KAR 47.160. Design drawings, specifications, and engineering studies shall be sealed by a professional engineer registered in Kentucky. The contents of the administrative application contain information that is part of a complete application as required by KRS 224.855. The contents of the administrative application shall be accurate and complete at the time the cabinet makes its preliminary determination to issue a solid waste permit.

Section 2. Notice of Intent to Apply. The owner or operator shall state the name of the applicant and list the date of submittal of the notice of intent to apply for a solid waste permit as required by 401 KAR 47:170. Any relevant information contained in the notice of intent to apply that is incomplete or inaccurate as previously filed shall be corrected and filed with the cabinet.

Section 3. Compliance with the Area Plan. (1) The applicant shall describe how the proposed new solid waste site or facility or expansion to the existing solid waste site or facility complies with or relates to relevant area solid waste management area plan(s). If the proposed site or expansion is in an area with an approved area plan, the cabinet shall review the application for compliance with the solid waste management area plan. If the proposed facility does not comply with the approved area plan(s), the cabinet may deny the permit application unless a revision or amendment to the plans are completed by the solid waste management areas and approved by the cabinet.
(2) Modification of facilities. When an application for a modification to a solid waste site or facility is for an increase in the quantity of waste, the cabinet may deny the application when the additional quantity shall reduce the projected operating life to less than five (5) years. If an application for a modification to a solid waste site or facility reduces the projected operating life of the site or facility to less than five (5) years, the cabinet shall notify the affected solid waste management areas.

Section 4. General Information Requirements. (1) The applicant is to describe the potential impact of operating the facility on the following:
(a) Transportation facilities;
(b) Prime agricultural lands; and
(c) Water resources.
(2) Historic properties. The application shall include a review of the site features or structures of historical significance.
(3) Endangered or threatened species. The application shall include an inventory of any endangered or threatened species and the habitat critical to any endangered or threatened species consistent with the requirements of 50 CFR Part 402. A letter from the Kentucky Nature Preserves Commission and the Kentucky Department of Fish and Wildlife Resources with concurrence that the proposed facility shall not adversely affect endangered or threatened species shall be provided.
(4) Variances. The applicant shall describe any anticipated variance requests pursuant to Section 2 of 401 KAR 30:020, including the regulation from which relief is sought. The variance request shall describe the ability of the applicant to meet the environmental performance standards of 401 KAR 47:030 if the variance is granted.
(5) The applicant shall provide, on a form furnished by the cabinet, written certification from the chairman of the local planning and zoning board, formed pursuant to KRS Chapter 100, stating that the site meets all local planning and zoning requirements of the area, or a statement from the county judge/executive that the area does not have local zoning.
(6) The applicant shall provide a statement from the county judge/executive or local KRS Chapter 109 waste management district(s), when one exists for the area(s), that the proposed facility does not conflict with the solid waste management area plan(s) or requirements of the district or county.
(7) The applicant shall provide a copy of the deed to the property and a copy of the lease or proposed lease showing a thirty (30) year right

of reentry following closure of the facility if the landowner is not the applicant. The property shall be owned in fee simple.

(8) The applicant shall provide a report from the appropriate fire chief addressing the capability of the local fire district to fight fire at the facility, a certification showing the name of the fire agency, the contact person, phone number, and address, and a statement that the agency has jurisdiction in the area that the facility shall be located.

Section 5. Topographic Map and Site Information. The administrative application shall contain:

(1) An existing conditions topographic map at a suitable scale to depict the anticipated buffer zones and limits of waste on an engineering drawing twenty-four (24) inches by thirty-six (36) inches. The contour intervals on the map shall be two (2) feet. The map shall clearly show the following:

(a) Legend with a bar scale, date of preparation, and last update;

(b) Orientation of the map (north arrow);

(c) 100 year flood plain area and, if applicable, floodway;

(d) Surface waters, including blue line and intermittent streams;

(e) Surrounding land uses (residential, commercial, agricultural, recreational, etc.). For areas with zoning, the land use map shall conform to the local zoning agency's land use mapping system;

(f) A wind rose (i.e., prevailing wind-speed and direction);

(g) Property lines;

(h) The location of areas which are proposed to be excavated to obtain earthen material for the construction of the facility and for cover material;

(i) The zones that reflect the area of expected subsidence or critical draw if subsurface mines, caves or excavations subside;

(j) Proposed limits of the waste;

(k) The actual elevation referenced to a United States Geological Survey mean sea level datum and location of test borings and core samplings;

(l) Injection and withdrawal wells; and

(m) Any existing structures.

(2) Site information. The applicant shall provide the following information regarding the potential site:

(a) Total acres of site;

(b) Acres of the site to be designed for disposal areas;

(c) Approximate waste volume based on a minimum of four (4) equally spaced cross-sections;

(d) Planned life of facility;

(e) A description of title, deed, or usage restrictions affecting the proposed permit area including a scaled drawing showing the current boundaries of all property proposed for development and buffer zones, and the ownership of these properties and all adjacent property; and

(f) The presence of any abandoned, reclaimed, active or inactive surface or subsurface mines or natural caves on the site.

Section 6. Geologic and Hydrogeologic Information. (1) The administrative application shall include the following geologic information:

(a) A description of the type, texture, thickness and range in thickness of unconsolidated materials;

(b) A description of the regional bedrock geologic structure to include the regional stratigraphic strike and dip, the locations and attitudes of regional faults and folds and regional jointing trends;

(c) A description of the site specific geologic structure to include site specific stratigraphic strike and dip, the locations and attitudes of any faults or folds intersecting the site and the attitudes and spacing of joints;

(d) A brief description of the influence that fracture zones have on the movement of infiltrated water and groundwater;

(e) A minimum of two (2) geologic cross sections, using published data, bedrock outcrops and rock core boring information which shall be depicted on scaled drawings with vertical exaggeration, to adequately illustrate the geology of the site. The cross sections shall include:

1. The seasonal high groundwater table; and

2. Rock outcrop occurrences.

(f) A list of any extractable coal seams or other minerals beneath the site;

(g) A description of any active or inactive deep mines located beneath the site or within 1,500 feet of the site including depth to mined area, aerial extent of mined area and type of minerals mined (if coal, give the names of seams); and

(h) A map depicting the property, the proposed limits of waste and the area at least 1,500 feet from the limits of waste at a scale of one (1) inch equals 400 feet that shows the following:

1. Geologic units and rock outcrop occurrences;

2. Surface depressions, sinkholes and spring occurrences;

3. Location of wells used for water withdrawal and injection of fluids;

4. Location of rock core borings; and

5. Surface contours.

(2) The administrative application shall include the following hydrogeologic characterization:

(a) The hydrologic characteristics of the uppermost aquifer and the geologic units hydraulically connected to it, including field test data for hydraulic conductivity, storage coefficient and transmissivity, and groundwater hydraulic gradient and velocity. The description of these characteristics shall be based on multiple well aquifer tests, piezometer nest evaluation, and core evaluation. The application shall include data and the procedures and calculations used to determine these characteristics;

(b) Tracer studies. Where sites overlie fractured bedrock, weathered limestone or dolomite bedrock or where karst environments cannot be avoided, the cabinet may require tracer studies before finalizing the groundwater monitoring plan; and

(c) A survey and listing of residential springs and water wells within one (1) mile of the proposed waste boundaries. The survey shall determine the location of springs and wells which shall be shown on a map with their approximate elevation and depth, name of owner, age and usage of the spring or well, stratigraphic unit that the spring is located in or is constructed in, well construction, static well levels, spring or well yield, perceived

water quality, and any other relevant data which can be obtained.

Section 7. Soils Information. The administrative application for a solid waste landfill shall contain a soils inventory consisting of a description of the total volume and source of borrow material available, and total estimated volume and source of required daily cover, interim cover, long term cover, final cover, and low permeability soils required by 401 KAR 48:060, 401 KAR 48:070, 401 KAR 48:080, 401 KAR 48:090, and 401 KAR 48:170. The administrative application shall include the following soils data as determined by the approved site investigation: location, depth, thickness, engineering classification, particle size distribution, atterburg limits, optimum moisture, permeability, and recoverable volume in compacted cubic yards for each soil classification and permeability. The administrative application shall include a map at a scale of one (1) inch equals 400 feet depicting the distribution of the soils that is keyed to a list of the soils by engineering classification. The approximate volume and depth of each type of soil shall be recorded on the map.

Section 8. Siting Restrictions and Design Report for Landfills. The administrative application for landfills shall contain a report describing the proposed design to comply with each of the siting, design and operating requirement restrictions in 401 KAR 47:030, 401 KAR 48:050, 401 KAR 48:060, 401 KAR 48:070, 401 KAR 48:080, 401 KAR 48:090 and 401 KAR 48:170. The report shall include a description of the engineering drawings to be developed by type and the proposed scale for each.

Section 9. Executive Summary. The administrative application shall include an executive summary pursuant to KRS 224.855.

(1) The written portion of the executive summary shall be in a format that may be understood by the average citizen and shall contain:

(a) The applicant's name and address;
(b) Directions to the site;
(c) Zoning requirements;
(d) Purpose of the application;
(e) Type of landfill, i.e., construction/demolition debris, residual, or contained;
(f) Acreage of the property and the area to be filled;
(g) Volume of fill stated in cubic yards;
(h) Source of waste by county(ies) or facility(ies) as appropriate, both in-state and out-of-state;
(i) A description of all waste, other than residential, to be disposed at the site;
(j) Anticipated operating life of the proposed landfill site reported in years;
(k) A description and the source of soils to be used for liner(s), cover material, and other purposes;
(l) General geology, i.e., limestone, coal field, etc., of the proposed site area;
(m) A description of the groundwater resources (aquifers and flow patterns);
(n) Approximate depth to groundwater and general groundwater use in the area;
(o) A description of surface water control measures;
(p) A description of the liner and cap;
(q) Leachate management methodology to include treatment and or disposal; and
(r) Any other information considered to be pertinent to the public interest or of concern to the solid waste management planning area, the applicant, or the cabinet.

(2) An area map, twenty-four (24) inches by thirty-six (36) inches, shall be provided depicting the proposed development plan. The map shall be prepared to include the facility plus 1,500 feet from the boundary of the proposed waste cells. The map shall show the following:

(a) Major highways and features;
(b) Site boundaries and waste limits;
(c) Adjacent land use and zoning;
(d) Any water supply intake shall be either shown or noted;
(e) Endangered and threatened species and their habitat as identified by the Kentucky Nature Preserves Commission and the Kentucky Department for Fish and Wildlife Resources;
(f) The direction of groundwater flow;
(g) Location of groundwater users; and
(h) Property boundaries where they occur on the map showing the adjacent land owner's name.

(3) Graphics or engineering drawings shall be provided to show the following:

(a) Proposed landfill site prior to development;
(b) Landfill development and sequence of operations;
(c) Environmental protection measures including liners, cap, groundwater monitoring, surface water monitoring, silt ponds, etc.;
(d) Geologic setting of the site; and
(e) Proposed site entrance.

Section 10. Ownership Information. The administrative application shall contain a showing of the past compliance record for both the applicant and any other individual or entity designated to own or operate the facility by submitting the following:

(1) Organizational structure;

(a) If the applicant is a proprietorship, the applicant shall provide a detailed listing of:

1. The proprietors and their respective interests, whether ownership or otherwise; and
2. Any partnerships (general or limited), joint venture, or corporation in which the applicant holds a twenty-five (25) percent or more interest (whether ownership or otherwise);

(b) If the applicant is a partnership, either general or limited, the applicant shall provide a detailed listing of:

1. Each of the partners and their respective interests, whether ownership or otherwise;
2. Any corporation, joint venture, partnership (general or limited), or proprietorship in which any of the constituent partners of the applicant holds twenty-five (25) percent or more interest (whether ownership or otherwise); and
3. Any corporation, joint venture, proprietorship, or partnership (general or limited) which holds a twenty-five (25) percent or more interest (whether ownership or otherwise) in any of the nonindividual constituent partners comprising the applicant;

(c) If the applicant is a corporation, the applicant shall provide a detailed listing of:

1. The officers, directors, and major stockholders;
2. Any corporation of which the applicant is either a subsidiary or which holds twenty-five

(25) percent or more interest (either in stock or assets) in the applicant;

3. Any corporations which are either subsidiaries of the applicant or in which the applicant holds a twenty-five (25) percent or more interest (either in stock or assets); and

4. Any proprietorship, partnership (general or limited), or joint venture in which the applicant holds a twenty-five (25) percent or more interest, whether ownership or otherwise;

(d) If the applicant is a joint venture, a detailed listing of:

1. All other joint ventures, and the respective interests (whether ownership or otherwise) of each; and

2. Any proprietorship, partnership (general or limited), joint venture or corporation in which the applicant holds a twenty-five (25) percent or more interest (whether ownership or otherwise);

(2) For every individual or other entity listed in subsection (1) of this section, a detailed listing of violations of federal or state laws, rules or regulations (whether either judicial or administrative proceedings are pending or completed) that have resulted or shall result in either criminal convictions or civil or administrative fines as much as or more than $1,000. This subsection shall apply to the requirements of the Clean Air Act, the Clean Water Act P.L. 92-500 et seq., the Surface Mine Reclamation Act, the Resource Conservation and Recovery Act, the Occupational Safety and Health Act, KRS Chapters 224, 350 and 352; and

(3) For each and every individual or other entity listed in subsection (1) of this section, a current financial statement prepared by a certified public accountant.

FRANK DICKERSON, Commissioner
CARL H. BRADLEY, Secretary
APPROVED BY AGENCY: January 9, 1990
FILED WITH LRC: January 15, 1990 at 9 a.m.

PUBLIC HEARING: A public hearing to receive comments on this proposed regulation will be conducted February 22, 1990 at 10 a.m. (EDT), in the first floor auditorium of the New State Office Building, High and Clinton Streets, Frankfort, Kentucky. Persons interested in attending this public hearing shall notify in writing at least five days prior to the hearing: David W. Morgan, Division of Waste Management, Frankfort Office Park, 18 Reilly Road, Frankfort, Kentucky 40601. Persons wishing to submit written comments without attending the hearing may do so, if the written comments are received in the Frankfort office of the Department for Environmental Protection by 4:30 p.m.(EDT) on February 22, 1990.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Susan C. Bush, Director

(1) Type and number of entities affected: Approximately 10 owners per year file applications for new or expanded landfills. Of these, approximately 8 file administrative applications.

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

1. First year: The cost to perform the site investigation and administrative application will be about $1,000 per acre plus about $20,000 for each application. This will require about $200,000 in site development investigations for 200 acres plus about $200,000 for 10 sites each year. This is compared with approximately $50,000,000 spent each year for solid waste management in Kentucky.

2. Continuing costs or savings: The continuing cost may be about $200,000 to $800,000 each year to prepare administrative applications. This wide range is due to the variations in number, location and size of future landfill applications.

3. Additional factors increasing or decreasing costs (note any effects upon competition): Other factors that may affect cost include the size and complexity of the landfill sites.

(b) Reporting and paperwork requirements: The proposed regulation requires revision of the current application forms used for solid waste landfill permits. Applicants will have to familiarize themselves with the new forms.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The promulgating administrative body will need to increase current staff levels by one additional work year to review the administrative applications in the first year.

2. Continuing costs or savings: It will be necessary to maintain 2 person years effort to review the applications on an ongoing basis.

3. Additional factors increasing or decreasing costs: The costs may increase if the number of applications increases.

(b) Reporting and paperwork requirements: The proposed regulation will require the revision of the application forms for solid waste landfills.

(3) Assessment of anticipated effect on state and local revenues: There is no anticipated effect to state or local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: The proposed regulation details the contents of the second part of the solid waste permit application. This phase of permitting is designed to evaluate the site for suitability as a landfill. The proposed regulation clarifies existing rules and procedures.

Alternative: 1. Less stringent: Keeping the single application could result in owners spending unnecessary engineering fees or becoming committed to an unsuitable site.

2. More stringent: The proposed regulation adequately addresses the needs of the application process. More stringent requirements are not needed.

3. Present proposal: The administrative application contains the site-specific information necessary for the cabinet to determine site suitability before design occurs.

(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 in conflict with the proposed regulations.

(a) Necessity of proposed regulation if in conflict: There is no conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no conflict.

(6) Any additional information or comments: There is no additional comments.

TIERING: Was tiering applied? Yes. The regulations of 401 KAR Chapters 47 and 48 use multiple tiering systems. Permit-by-rule in 401

KAR 47:150, and granted permit-by-rule in 401 KAR 47:110 give certain practices and management activities a method of avoiding full permits. Emergency permits and research, development and demonstration permits in 401 KAR 47:150 provide permitting mechanisms for certain situations. The 3 types of solid waste landfills (contained, residual and construction/demolition debris) and the 3 classes of landfarming provide for a tiering mechanism based on the type and quality of the waste received.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Subtitle D of the Resource Conservation and Recovery Act is the federal solid waste statute. 40 CFR Part 257 establishes standards for classification of open dumps. Kentucky has adopted a form of these rules as the "Environmental Performance Standards". Under a 1984 amendment to the Resource Conservation and Recovery Act, the U.S. EPA was required to revise their existing solid waste regulations for facilities receiving household hazardous wastes or hazardous wastes from persons who generate less than 220 pounds per month. The federal law specifies in Section 4010(c) that, at a minimum, the revisions shall include groundwater monitoring to detect contamination, establish criteria for the acceptable location of new or existing facilities, and provide for corrective action as appropriate. On August 30, 1988, the federal government proposed revisions to the existing solid waste regulations. If the administrator of the U.S. EPA determines that a state has not adopted an adequate permit the EPA may enforce the revised federal criteria at facilities that may receive household hazardous wastes and hazardous wastes from persons who generate less than 220 pounds per month.

2. State compliance standards. KRS Chapter 224 is the environmental protection authority for the Commonwealth of Kentucky. The proposed regulation details the contents of the administrative section of the solid waste permit application. This phase of permitting is intended to evaluate the site, any regulatory variances, and past performance of the owner. This phase also includes review of the proposed design. The federal law requires states to adopt a permitting procedure but the proposed federal regulations do not adopt a federal standard. This proposed regulation continues the current state procedures while drawing procedural language from the federal permitting regulations.

3. Minimum or uniform standards contained in the federal mandate. The Resource Conservation and Recovery Act does not require a specific permitting program for solid waste disposal facilities. U.S. EPA has established the requirements for a solid waste disposal program under 40 CFR 256. Each state must have a program aimed at eliminating open dumps as characterized by 40 CFR 257.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No, the federal government requires the states to move toward elimination of open dumps. The administrative application is a portion of the solid waste permit application. The permitting process is designed to minimize the chance that a site will not meet 40 CFR 257 mandated standards and become an open dump due to poor siting or design.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The federal government requires the state to eliminate open dumps. The federal government has no permitting authority for solid waste sites.

NATURAL RESOURCES & ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 47:190. Contents of the technical application for solid waste landfills.

RELATES TO: KRS 224.005 through 224.110, 224.830 through 224.888, 224.994

STATUTORY AUTHORITY: KRS Chapter 13A, 224.033, 224.842

NECESSITY AND FUNCTION: KRS Chapter 224 requires the cabinet to adopt rules and regulations for the management, processing or disposal of wastes. KRS 224.842 requires that persons engaging in the management, processing or disposal of waste obtain a permit. This chapter establishes the permitting standards for solid waste sites or facilities, the standards applicable to all solid waste sites or facilities, and the standards for certification of operators. An overview of the permit program is found in Section 1 of 401 KAR 47:080. This regulation sets forth the general content requirements for a technical application for a solid waste landfill.

Section 1. Objective and General Requirements. The objectives of the technical application are to specify technical standards. The technical application contains the facility design and narrative. The cabinet shall evaluate the application for compliance with the environmental performance standards in 401 KAR 47:030 and other applicable regulations. The applicant shall submit the technical application in a format approved by the cabinet and signed in accordance with Section 6 of 401 KAR 47:160. Engineering drawings, specifications and studies shall be certified by a professional engineer registered in Kentucky. The contents of the technical application contains information that is part of a complete application as required by KRS 224.855. The contents of the technical application shall be accurate and complete at the time the cabinet makes its preliminary determination to issue a solid waste permit.

Section 2. Design Plans. (1) An applicant for a solid waste landfill permit shall submit engineering plans showing the design of the site. The engineering plans shall meet the design requirements of 401 KAR 48:060 for construction/demolition debris landfills, 401 KAR 48:070 and 401 KAR 48:080 for contained landfills or 401 KAR 48:170 for residual landfills. The applicant shall submit copies of the application including engineering drawings in accordance with Section 1(4) of 401 KAR 47:160.

(2) Each application shall include the following drawings:

(a) A drawing of the entire site on one (1) sheet showing:

1. Current site conditions;
2. Site development plan including buffer zones;
3. Location of environmental monitoring points for surface water, groundwater and methane; and
4. Baselines.

(b) Site plans drawn to a scale of one (1) inch equals 100 feet unless an alternative scale has been approved showing:
1. Development plan;
2. Location of environmental monitoring points for surface water, groundwater and methane; and
3. Baseline or off-set baseline;

(c) Cross-sections at 100 foot intervals of each baseline at a scale of one (1) inch equals ten (10) feet vertically and one (1) inch equals 100 feet horizontally;

(d) Drawing of the profile along each baseline; and

(e) Other drawings as needed to properly depict the site's proposed development and details of construction design and construction.

Section 3. Narrative. (1) An applicant for a solid waste landfill permit shall submit a design narrative. The narrative shall address how the application meets the requirements of 401 KAR 47:030, 401 KAR 48:050, and 401 KAR 48:060 for construction/demolition debris landfills; 401 KAR 47:030, 401 KAR 48:050, 401 KAR 48:070 and 401 KAR 48:080 for contained landfills; or 401 KAR 47:030, 401 KAR 48:050 and 401 KAR 48:170 for residual landfills. The narrative shall also include the construction quality control plan required by Section 6 of this regulation and the quarterly report specifications required by Section 8 of this regulation.

(2) An applicant for a solid waste landfill permit shall submit an operations narrative describing how the operational requirements of 401 KAR 48:060 for a construction/demolition debris landfill, 401 KAR 48:090 for a contained landfill or 401 KAR 48:170 for a residual landfill shall be met.

Section 4. Closure, Closure Care and Performance Bond. (1) An applicant for a solid waste landfill permit shall submit closure and closure care plans meeting the requirements of 401 KAR 48:060 for a construction/demolition debris landfill, 401 KAR 48:070 through 401 KAR 48:090 for a contained landfill and 401 KAR 48:170 for a residual landfill. Design specifications for the cap shall be included.

(2) The applicant shall submit a closure and closure care cost estimate for the plans in subsection (1) of this section consistent with the requirements of 401 KAR 48:310.

(3) Upon approval of the permit application and before the issuance of the construction/operating permit, the applicant shall submit the performance bond for closure and closure case which meets the requirements of 401 KAR 48:310.

Section 5. Groundwater Monitoring and Corrective Action Plan. An applicant for a solid waste landfill permit shall submit a groundwater monitoring plan meeting the requirements of 401 KAR 48:300.

Section 6. Construction Quality Control Plan. (1) An applicant for a solid waste landfill permit shall submit a construction quality control plan that shall ensure the site or facility is constructed in a manner conforming to the requirements in Sections 7 and 8 of this regulation and containing the following elements:

(a) The persons responsible for each part of the quality control plan;

(b) Frequencies and specifications for inspections and tests;

(c) Forms to be used;

(d) Survey control system of plan views and cross-sections for such inspections and tests; and

(e) A statement to be used for certifying that the quality control plan was followed by the owner or operator.

(2) The construction quality control plan shall provide assurance that homogeneous low permeability soil liners are compacted using nonvibratory sheepsfoot rollers with a minimum of six (6) passes per soil lift. The sheepsfoot roller ballast shall be varied to prevent reaching the desired proctor density with less than six (6) passes. Smooth rollers may be used at the end of each work period to seal the surface from rain infiltration.

Section 7. Landfill Liner Requirements. An applicant for a solid waste landfill permit shall submit liner designs in accordance with 401 KAR 48:080 for contained landfills, 401 KAR 48:060 for construction/demolition debris and 401 KAR 48:170 for residual landfills.

Section 8. Landfill Recordkeeping and Reporting. An applicant for a solid waste landfill permit shall submit plans for a recordkeeping and reporting system. The plan shall meet the following requirements:

(1) A quarterly report shall be submitted to the cabinet on a form approved by the cabinet no later than the 15th of the month following the end of each quarter year. The quarters shall end on March 31, June 30, September 30 and December 31 of each year. The report shall contain the following:

(a) Documentation of construction;

(b) Monthly volume of waste received from each source;

(c) Documentation of cover requirements;

(d) Environmental monitoring results including surface water, groundwater, methane, and other permit conditions; and

(e) The quantity and concentration of leachate generated and disposed, with method of disposal. The concentration shall be determined using parameters listed in Section 10(2) of 401 KAR 48:300 for construction/demolition debris landfills and Section 10(3) of 401 KAR 48:300 for contained landfills.

(2)(a) An annual survey shall be conducted by the owner operator to determine remaining landfill volume which may be used for waste disposal. The quantity of waste disposed per day shall be determined by dividing the total waste received in one (1) year by 365 calendar days. The survey shall be conducted annually and the results shall be submitted to the cabinet no later than thirty (30) days following the actual survey. When aerial photography is used, the survey results shall be provided within ninety (90) days of the aerial photography. This survey shall bear the seal of the registered professional land surveyor or professional engineer who performed the survey. The owner or operator shall notify the cabinet no less than fifteen (15) calendar days prior to the date the

survey shall be conducted.

(b) An annual survey shall be submitted to the cabinet by May 1 of each year and shall contain the following information:

1. Cross-sections on 100 foot intervals showing current waste placement and proposed final contours; and

2. Remaining capacity in cubic yards.

(3) Surface water and groundwater sample shall be collected and analyzed according to the following criteria:

(a) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

(b) The owner or operator shall retain records of all monitoring information, copies of all reports required by the permit, and records of all data used to complete the application for the permit, for a period of at least three (3) years from the date of the sample, measurement, report, certification, or application. This period may be extended by request of the cabinet at any time. In addition, the owner or operator shall maintain records from all groundwater monitoring wells and associated groundwater surface elevations, for the active life of the facility, and for the closure care period as well.

(c) Records of monitoring information shall include:

1. Date, exact place, and time of sampling or measurements;

2. Individual who performed the sampling or measurements;

3. Date analyses were performed;

4. Individual who performed the analyses;

5. Analytical techniques or methods used; and

6. Results of such analyses.

(4) All waste entering a contained landfill shall be weighed prior to disposal.

(5) The owner or operator of a contained landfill shall keep permanent records of the source, disposal location and quantity of any spill residues and limited quantity generator hazardous wastes, and records as to the source and quantity of all other wastes disposed of at the contained landfill. These records shall be available for cabinet inspection and shall be summarized in a report and submitted to the cabinet with the annual report or request for permit renewal.

FRANK DICKERSON, Commissioner
CARL H. BRADLEY, Secretary

APPROVED BY AGENCY: January 9, 1990

FILED WITH LRC: January 15, 1990 at 9 a.m.

PUBLIC HEARING: A public hearing to receive comments on this proposed regulation will be conducted February 22, 1990 at 10 a.m. (EDT), in the first floor auditorium of the New State Office Building, High and Clinton Streets, Frankfort, Kentucky. Persons interested in attending this public hearing shall notify in writing at least five days prior to the hearing: David W. Morgan, Division of Waste Management, Frankfort Office Park, 18 Reilly Road, Frankfort, Kentucky 40601. Persons wishing to submit written comments without attending the hearing may do so, if the written comments are received in the Frankfort office of the Department for Environmental Protection by 4:30 p.m.(EDT) on February 22, 1990.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Susan C. Bush, Director

(1) Type and number of entities affected: This proposed regulation will affect the four to six applicants that will submit technical applications annually for new or expanded sites.

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

1. First year: An additional $5,000 to $10,000 per application would be required to meet the requirements for the proposed 40 CFR Part 258 and cabinet rules. This represents $20,000 to $60,000 per year.

2. Continuing costs or savings: The continued costs would be $20,000 to $60,000 per year.

3. Additional factors increasing or decreasing costs (note any effects upon competition): The additional factors affecting the range include: the number of applications, the type of landfill permit applications and the size of the sites.

(b) Reporting and paperwork requirements: The estimated costs are engineering and geologic analysis time to prepare the new portions of the permit application.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: This regulation is part of several that are proposed for the requirements of solid waste landfill permits. The cost of this rule will be about 1/2 person year.

2. Continuing costs or savings: The staff needed to review permit applications will increase as the number of applications increases.

3. Additional factors increasing or decreasing costs: The cabinet costs depend on the number of new or expansion applications received each year and the type and size of the landfill.

(b) Reporting and paperwork requirements: The division will revise the application forms for a solid waste facility permit.

(3) Assessment of anticipated effect on state and local revenues: This regulation will not affect state and local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Requirement for a technical application.

Alternative: 1. Less stringent: A less stringent requirement would be to require less detail in the design documents and fewer tests for soil liners. In the judgement of the cabinet, these would not provide adequate protection of human health and the environment.

2. More stringent: Requiring more information would not afford proportionately greater protection for the environment. The soils testing could be increased to require more samples.

3. Present proposal: The proposed regulation requires an adequate level of design detail and soils testing for protection of human health and the environment.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: The proposed regulation would not conflict with any other rule or statute.

(a) Necessity of proposed regulation if in conflict: No conflict exists.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: No conflict exists.

(6) Any additional information or comments: There is no additional information.

TIERING: Was tiering applied? Yes. Contained landfills are subject to the greatest requirements for a permit, followed by construction/demolition and residual landfills. The regulations of 401 KAR Chapters 47 and 48 use multiple tiering systems. Permit-by-rule in 401 KAR 47:150, and granted permit-by-rule in 401 KAR 47:110 give certain practices and management activities a method of avoiding full permits. Emergency permits and research development and demonstration permits in 401 KAR 47:150 provide permitting mechanisms for certain situations. The three types of solid waste landfill (contained, residual and construction/demolition debris) and the three classes of landfarming provide for a tiering mechanism based on the type and quality of the waste received.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Subtitle D of the Resource Recovery and Conservation Act (RCRA) establishes the federal solid waste program, while 40 CFR Part 257 establishes minimum environmental standards for disposal sites. EPA has proposed 40 CFR Part 258 to establish minimum national criteria for municipal solid waste landfills. Under a 1984 amendment to the Resource Conservation and Recovery Act, the U.S. EPA was required to revise their existing solid waste regulations for facilities receiving household hazardous wastes or hazardous wastes from persons who generate less than 220 pounds per month. The federal law specifies in Section 4010(c) that, at a minimum, the revisions shall include groundwater monitoring to detect contamination, establish criteria for the acceptable location of new or existing facilities, and provide for corrective action as appropriate. On August 30, 1988, the federal government proposed revisions to the existing solid waste regulations. If the administrator of the U.S. EPA determines that a state has not adopted an adequate permit, the EPA may enforce the revised federal criteria at facilities that may receive household hazardous wastes and hazardous wastes from persons who generate less than 220 pounds per month.

2. State compliance standards. KRS Chapter 224 is the environmental protection statute. The proposed regulation outlines the requirements for the technical section of an application for a solid waste landfill. The federal law requires states to adopt a permitting procedure but the proposed federal regulations do not adopt a federal standard. This proposed regulation continues the current state procedures while drawing procedural language from the federal permitting regulations.

3. Minimum or uniform standards contained in the federal mandate. U.S. EPA promulgated 40 CFR Part 257 standards for a solid waste disposal program.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The federal government requires the states to eliminate open dumps The technical application is a portion of the solid waste permit application. The permitting process is designed to minimize the chance that a site will not meet 40 CFR Part 257 or proposed 40 CFR Part 258 standards due to siting or design.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The federal government requires the states to protect human health and the environment by mandating compliance with 40 CFR Part 257 and, in the near future, 40 CFR Part 258. The cabinet uses its permitting authority to meet the requirements since the national government has none.

NATURAL RESOURCES & ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 48:050. Siting requirements for solid waste landfills.

RELATES TO: KRS 224.005 through 224.110, 224.830 through 224.889, 224.994

STATUTORY AUTHORITY: KRS Chapter 13A, 224.033, 224.842

NECESSITY AND FUNCTION: KRS Chapter 224 requires the cabinet to adopt rules and regulations for the management, processing or disposal of wastes. KRS 224.842 requires that persons engaging in the storage, treatment, recycling and disposal of waste obtain a permit. This chapter establishes the minimum technical standards for solid waste sites or facilities. This regulation sets forth the siting requirements for construction/demolition debris, contained, and residual landfills.

Section 1. Buffer Zones. Wastes shall not be placed:

(1) Within 250 feet of a blue-line stream unless a 401 water quality certification has been issued.

(2) Within 1,000 feet of the nearest edge of the right-of-way of any toll road, parkway, interstate, or other state primary road as classified by the Kentucky Transportation Cabinet's functional classification system, or the boundary of any public park unless the facility is screened by natural objects, plantings, fences or other appropriate means so that it is not noticeably visible from the highway or park;

(3) Within the zone of collapse of deep-mine workings or within the critical angle of draw of such workings;

(4) Within 250 feet of a feature of karst terrain;

(5) Within 250 feet of the property line;

(6) Within 250 feet of a residence;

(7) Within fifty (50) feet of a gas, sewer or water line; and

(8) Within 250 feet of a unplugged well.

Section 2. Seasonal High Groundwater Table. (1) The lowest component of the bottom liner of new units of a landfill shall be at least four (4) feet above the seasonal high groundwater table.

(2) Wastes that leach heavy metals in concentrations exceeding the primary drinking water standards when analyzed using the extraction procedure toxicity test shall be placed no closer than five (5) feet above the seasonal high groundwater level.

Section 3. Flood Plains. (1) No person shall be issued a permit to construct a new contained landfill in the 100-year flood plain.

(2) Waste disposed in residual or construction/demolition debris landfills shall not be placed within the 100 year flood plain of the waters of the Commonwealth unless the applicant complies with Section 2 of 401 KAR 47:030 of the Environmental Performance Standards concerning base flow restriction, temporary water storage capacity reduction, and waste washout. Where available, empirical data shall be used to determine the frequency of flood exposure. Where data are not available, the frequency of flood exposure shall be established by the unit hydrograph technique.

Section 4. Airport Location Criteria. A solid waste landfill that shall be operated in a manner that may attract birds and is located within 10,000 feet of any airport runway used by turbojet aircraft or within 5,000 feet of any airport runway used by only piston-type aircraft shall not pose a bird hazard to aircraft.

Section 5. Fault Areas. Waste cells of a solid waste landfill shall not be located within 200 feet of a fault that has had displacement in holocene time.

Section 6. Site Suitability. Landfills shall not be permitted in any area unless the applicant can demonstrate to the satisfaction of the cabinet that:

(1) The uppermost aquifer is capable of being monitored in a manner that detects the presence of any constituent listed in Section 10 of 401 KAR 48:300; and

(2) Corrective action of the uppermost aquifer is capable of being performed in accordance with 401 KAR 48:300.

FRANK DICKERSON, Commissioner
CARL H. BRADLEY, Secretary
APPROVED BY AGENCY: January 9, 1990
FILED WITH LRC: January 15, 1990 at 9 a.m.

PUBLIC HEARING: A public hearing to receive comments on this proposed regulation will be conducted February 22, 1990 at 10 a.m. (EDT), in the first floor auditorium of the New State Office Building, High and Clinton Streets, Frankfort, Kentucky. Persons interested in attending this public hearing shall notify in writing at least five days prior to the hearing: David W. Morgan, Division of Waste Management, Frankfort Office Park, 18 Reilly Road, Frankfort, Kentucky 40601. Persons wishing to submit written comments without attending the hearing may do so, if the written comments are received in the Frankfort office of the Department for Environmental Protection by 4:30 p.m.(EDT) on February 22, 1990.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Susan C. Bush, Director

(1) Type and number of entities affected: Only newly constructed contained, construction/demolition, and residual landfills will be affected by this proposal.

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

1. First year: There are no new costs associated with this regulation.

2. Continuing costs or savings: The continuing costs will be dependent on site suitability as stated in the first year costs.

3. Additional factors increasing or decreasing costs (note any effects upon competition): A properly sited landfill will decrease the need for corrective action in the future.

(b) Reporting and paperwork requirements: No additional reporting will be required.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The proposed siting regulation will increase the need for qualified staff to make site suitability determinations. At least one hydrogeologist will be required.

2. Continuing costs or savings: The continuing costs are dependent on the degree of need for landfill siting decisions.

3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: No additional paperwork will be required by this proposal.

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: The division has adjusted the siting criteria such that a balance between interests to site landfills and interests to protect public health and the environment can be achieved.

Alternative: 1. Less stringent: Less stringent standards will jeopardize the cabinet's ability to protect public health and the environment.

2. More stringent: More stringent standards are not necessary for environmental protection. More stringent standards would adversely affect local government's ability to manage solid waste.

3. Present proposal: The present proposal sets reasonable siting criteria and provides for system redundancy when sites are less than satisfactory.

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

(a) Necessity of proposed regulation if in conflict: There is no conflicting provision.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no conflicting provision.

(6) Any additional information or comments: There is no additional information.

TIERING: Was tiering applied? Yes. This regulation applies to construction/demolition, contained, and residual landfills. The regulations of 401 KAR 47 and 48 use multiple tiering systems. Permit-by-rule in 401 KAR 47:150, and granted permit-by-rule in 401 KAR 47:110 give certain practices and management activities a method of avoiding full permits. Emergency permits and research, development and demonstration permits in 401 KAR 47:150 provide permitting mechanisms for certain situations. The three types of solid waste landfill (contained, residual and construction/demolition debris) and the three classes of landfarming provide for a tiering mechanism based on the type and quality of the waste received.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Subtitle D of the Resource Conservation and Recovery Act is the federal waste statute. 40 CFR Part 257 establishes standards for classification of open dumps, and Kentucky has adopted a form of these as "Environmental Performance Standards". Under a 1984 amendment to the Resource Conservation and Recovery Act, the U.S. EPA was required to revise their existing solid waste regulations for facilities receiving household hazardous wastes or hazardous wastes from persons who generate less than 220 pounds per month. The federal law specifies in Section 4010(c) that, at a minimum, the revisions shall include groundwater monitoring to detect contamination, establish criteria for the acceptable location of new or existing facilities, and provide for corrective action as appropriate. On August 30, 1988, the federal government proposed revisions to the existing solid waste regulations. If the administrator of the U.S. EPA determines that a state has not adopted an adequate permit the EPA may enforce the revised federal criteria at facilities that may receive household hazardous wastes and hazardous wastes from persons who generate less than 220 pounds per month.

2. State compliance standards. KRS Chapter 224 is the environmental authority for the Commonwealth of Kentucky. This proposed regulation sets forth the siting requirements for the construction/demolition, contained, and residual landfills. The federal law requires states to adopt a permitting procedure but the proposed federal regulations do not adopt a federal standard. This proposed regulation continues the current state procedures while drawing procedural language from the federal permitting regulations.

3. Minimum or uniform standards contained in the federal mandate. 40 CFR Part 257 presently outlines restrictions for landfill sites near flood plains and airports.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? Our proposed siting regulation is stricter than the present 40 CFR Part 257. However, EPA is upgrading 40 CFR Part 257 to include more siting restrictions. This proposed regulation includes these additional restrictions.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The Federal EPA is making its regulation more stringent, so the state must upgrade to meet the new requirements. The division has increased its own siting standards to protect the public from any potential health hazard or nuisance.

NATURAL RESOURCES & ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 48:060. Technical requirements for construction/demolition debris landfill.

RELATES TO: KRS 224.005 through 224.110, 224.830 through 224.888, 224.994

STATUTORY AUTHORITY: KRS Chapter 13A, 224.033, 224.842

NECESSITY AND FUNCTION: KRS Chapter 224 requires the cabinet to adopt rules and regulations for the management, processing or disposal of wastes. KRS 224.842 requires that persons engaging in the management, processing and disposal of waste obtain a permit. This chapter establishes the minimum technical standards for solid waste sites or facilities. An overview of the permit program is found in Section 1 of 401 KAR 47:080. This regulation sets forth the technical requirements for construction/demolition debris landfills that are not already classified under permit-by-rule and granted permit-by-rule.

Section 1. Design Requirements. (1) A construction/demolition debris landfill shall be designed to keep surface water flows and leachate separate. The design shall include:

(a) Surface contours to minimize surface water running onto or through the operational or completed fill area;

(b) Surface water run-on and run-off diversion ditches and structures designed to pass a 100 year, twenty-four (24) hour storm flow; and

(c) Surface water sediment basins designed to meet the following criteria:

1. The minimum retarding storage volume and the principal spillway discharge shall be such that a discharge through the emergency spillway shall not occur during the twenty-five (25) year, twenty-four (24) hour storm event;

2. The emergency spillway shall be capable of passing a 100 year twenty-four (24) hour storm event with no flow exceeding the design freeboard of the structure;

3. The sediment storage volume and projected operating period shall be stated. The minimum sediment storage volume shall provide for one (1) year of operation;

4. The sediment clean out elevation shall be specified; and

5. All designs shall be verified by a unit hydrograph method of calculation, or a method approved by the cabinet.

(2) The liner and leachate collection system shall be designed as follows:

(a) The bottom liner shall be constructed of soil with a minimum thickness of twelve (12) inches. In addition, a low permeability soil component shall include a minimum of twelve (12) contiguous inches of 1×10^{-7} centimeters per second maximum permeability material, or its equivalent. The liner shall cover the bottom and sidewalls of the facility. The minimum bottom slope shall be three (3) percent toward a leachate collection line and one (1) percent along leachate collection lines;

(b) The liner shall be overlain by a drainage layer of twelve (12) inches of material with a minimum permeability of 1×10^{-3} centimeters per second, or its equivalent, in areas of the liner system with a slope of less than twenty-five (25) percent;

(c) The leachate collection system shall contain a perforated piping system capable of removing leachate from the top surface of the low permeability solid component, and conveying it to a collection point. The drainage system shall meet the following requirements:

1. Main leachate collection pipes shall have a minimum diameter of eight (8) inches and shall be designed to withstand static and dynamic loads that may be encountered;

2. The sheet flow drainage distances to the lateral drainage pipes shall not exceed fifty (50) feet;

3. The lateral pipes shall be installed primarily perpendicular to flow;

4. The minimum diameter of lateral perforated pipes shall be four (4) inches and shall be designed to withstand static and dynamic loads that may be encountered. The materials used shall at a minimum conform to the specifications for ASTM schedule eighty (80) pipe; and

5. The minimum slope for the piping system shall be one (1) percent;

(d) The leachate collection tank shall be a minimum of 1,000 gallons. Additional capacity shall be provided to store leachate for a minimum of fifteen (15) days production at peak production rates during operation and closure;

(e) The method of leachate disposal shall be described. When it is discharged to the sediment structure, a treatment plant is proposed or other method of discharge is proposed, the KPDES permit shall reflect this provision. When an off-site wastewater treatment plant is used, the applicant shall provide written documentation showing the acceptance of the waste. The criteria for disposal at the wastewater treatment plant shall be stated. The leachate collection system shall have a method to measure the quantity of leachate managed at the site.

(f) The drainage layer shall be overlain by a layer of either filter fabric or material approved by the cabinet to protect the integrity of the drainage layer;

(g) The filter fabric shall be overlain by a twelve (12) inch granular material with a 1×10^{-3} centimeters per second minimum permeability.

(3) Adequate soil material shall be available to provide one (1) foot of compacted cover on lifts of every 10,000 square feet, at the end of each working week, or at intervals sufficient to reduce fire hazards, prevent an unsightly appearance, and eliminate disease vectors.

(4) All designs shall include an environmental monitoring plan to meet the requirements of 401 KAR 48:300.

(5) All compaction equipment to be used for site operation shall have a minimum weight of 30,000 pounds and a minimum 130 horsepower motor. Sufficient equipment shall be listed on the application to handle the cover requirements in subsection (3) of this section as well as the working cell grading and compaction.

(6) The design shall include a separate area for handling hot or smoldering loads, or any other construction/demolition wastes which present special handling problems.

(7) The design shall include a shelter with screened windows, heat, lighting, potable water and sanitary facilities for operating personnel.

(8) A closure plan shall be developed to include the following information:

(a) A description of the procedures and schedule for final closure;

(b) If the facility shall close in phases, a description that shall reflect the sequence of phased closure; and

(c) A description of the final cover designed to meet the following requirements:

1. The waste cells shall be graded to achieve a final slope of more than five (5) percent and less than twenty-five (25) percent;

2. The twelve (12) inch cover layer required by Section 2(14) of this regulation shall be overlain by a minimum of twelve (12) inches of a 1×10^{-7} centimeters per second maximum permeability cap or its equivalent;

3. The cap shall be covered by a six (6) inch drainage layer of 1×10^{-3} centimeters per second permeability material or its equivalent on slopes less than fifteen (15) percent;

4. A system of field drainage tiles shall be provided to relieve water collected by the drainage layer;

5. The drainage layer shall be protected with an overlaying filter fabric or material approved by the cabinet;

6. A minimum of three (3) feet of vegetative soil shall cover the drainage layer; and

7. Diversion berms shall be provided where surface runoff exceeds the capability of the final cover to sustain the flow without excessive erosion.

(9) The owner or operator shall develop a closure care plan which includes the following information:

(a) A narrative description and schedule of measures that are proposed to be carried out after closure at the facility. This shall include:

1. Water quality monitoring;
2. Leachate collection and treatment;
3. Erosion and sedimentation control;
4. Revegetation and regrading, including maintenance of the final cover; and
5. Access control.

(b) The proposed closure care land use, the method of achievement and the necessary support activities which may be needed to achieve the proposed land use.

(c) The name, address and telephone number at which the owner and operator can be reached during the closure care period.

(d) A final cover maintenance program for a period of not less than two (2) years beyond closure, to include erosion control, reseeding, refertilization, growth control, environmental monitoring, and leachate management.

Section 2. Operating Requirements. (1) The owner or operator of a construction/demolition debris landfill shall operate the facility in accordance with the requirements of KRS Chapter 224 and the regulations promulgated thereto, and the conditions of the solid waste permit issued by the cabinet.

(2) Landfill operators shall not permit or engage in open burning of waste. Any open burning shall be immediately extinguished. Wastes which are burning or smoldering shall not be deposited in the fill. Such materials shall be deposited at a location safely removed from the normal fill area.

(3) No waste containing free liquids or hazardous wastes shall be discharged to or placed in a landfill.

(4) The grounds in and about a landfill shall not be allowed to become a nuisance. The operator shall prevent dust from roads, cover, and wastes from leaving the site. When necessary, interior fences may be required to prevent litter from blowing from the landfill. The permitted area shall be policed on a routine basis to collect all scattered material.

(5) Signs and access control.

(a) An owner or operator of a construction/demolition debris landfill shall post and maintain a sign for the active life of the facility which is clearly visible at the

junction of the landfill access road and public road;

(b) A sign shall be posted at the entrance to the landfill that shows the name of the owner, the name of the operator, an emergency telephone number, the operating hours of the facility and the permit number authorizing operation of the facility. The sign shall be constructed of a durable, weather-resistant material and the letters and numbers shall be a minimum height of three (3) inches; and

(c) A certified operator shall be on duty when the site is open for use by persons other than the owner or his employee or agents.

(6) Scavenging shall be prohibited. Salvage and recycling operations shall not be allowed in conjunction with a landfill operation without prior approval by the cabinet.

(7) Landfill operators shall not allow uncontrolled public access that would expose the public to potential health and safety hazards.

(8) All-weather roads shall be provided within the site for vehicular movement. Separate areas within the site may be provided to allow for wet or dry weather operation and access. When necessary to prevent a dust nuisance, roads within the site shall be surfaced or treated.

(9) A shelter shall be provided which is accessible to operating personnel. The shelter shall be screened and provided with heat, lighting, potable water and sanitary facilities. Safe drinking water, sanitary hand washing and toilet facilities shall be available at or near the site.

(10) A fire safety and response plan shall be developed and maintained. The plan shall identify measures that shall reduce the risk of fire at the facility, identify the equipment and procedures to respond to a fire and supplement the local fire department's capabilities.

(11) Adequate communication facilities shall be provided for emergency purposes.

(12) Operating equipment shall be on site during operating hours and capable of spreading and compacting the volume of waste received at the site. Back-up equipment shall be available within one (1) week of primary equipment breakdown.

(13) Construction/demolition debris waste shall be spread and compacted in thin layers sufficient to minimize void spaces during placement of lifts. No lift shall be greater than eight (8) feet in depth or the depth approved in the application.

(14) The owner or operator shall apply a twelve (12) inch soil cover such that the area of exposed waste does not exceed 10,000 square feet in area and all exposed wastes shall be covered at least once each week.

(15) Disease vector control measures in addition to cover may be required by the cabinet when necessary.

(16) The entire site, including the area of the landfill being actively worked, shall be maintained as necessary to prevent erosion or washing of the fill, to drain precipitation from the fill area, to prevent surface water run-on, and to prevent standing water.

(17) Surfaces that shall not receive an additional depth of refuse or final cover within ninety (90) days shall be temporarily revegetated or otherwise protected against erosion.

(18) The site shall have an operator certified as specified in 401 KAR 47:070.

(19) Records and reports shall be maintained in accordance with the requirements of Section 8 of 401 KAR 47:190.

(20) Any person operating a construction/demolition debris landfill shall implement the groundwater monitoring program in the approved permit.

(21) Leachate shall be disposed using the method described in the approved permit.

(22) The owner or operator shall implement a program at the facility for detecting and preventing the disposal of unauthorized wastes. This program shall include at a minimum:

(a) Observance by the operator of all loads during dumping and spreading;

(b) Training of facility personnel to recognize unauthorized waste; and

(c) Procedures for notifying the proper authorities if an unauthorized waste is discovered at the facility.

(23) The owner or operator shall keep ditches free of waste and debris and dredge the sediment basin to maintain design capacity. Provisions shall be made for proper disposal of dredge spoils.

(24) The owner or operator shall conspicuously display the current or last permit issued with all applicable conditions at the construction/demolition debris landfill. A copy of the approved application including plans shall be reasonably available for use at the site.

Section 3. Closure and Closure Care Requirements. (1) The owner or operator shall implement the approved closure plan in accordance with the closure schedule and in the following manner:

(a) Those areas of a landfill that shall receive no additional deposits of solid waste within 365 days of the last placement of the waste shall receive final cover. The minimum final cover shall include the components described in Section 1(8) of this regulation and shall have a minimum thickness of four and one-half (4.5) feet in addition to any other cover required;

(b) Final cover shall be revegetated. After grading, final cover shall be fertilized as necessary, seeded, or planted with legumes, perennial grasses or other vegetation according to the approved closure plan. The owner or operator shall repeat this process until adequate vegetation is obtained to ensure soil stabilization;

(c) Before earth-moving equipment is removed from the site, an inspection of the entire site shall be made by an authorized representative of the cabinet to determine compliance with approved plans and specifications. The owner or operator shall present the quality control records demonstrating compliance with the permit; and

(d) The cabinet may release the site bonds in that amount which exceeds the funds necessary to maintain the final cover to correct vegetative growth, erosion, and closure care environmental monitoring for two (2) years. These funds will be released upon inspection of the permit records and the site to determine that it is in compliance with all regulatory requirements and has at least a ninety (90) percent permanent vegetative cover.

(2) The owner or operator shall implement the approved closure care plan in accordance with the closure care schedule and shall:

(a) Submit any amendment or modification to the closure plan at least ninety (90) days before the last acceptance of waste;

(b) Grade final cover as provided in the approved closure care plan and prevent ponding;

(c) Record a notice to the deed before the end of the closure care period that shall in perpetuity notify any potential purchaser of the property that the land has been used to dispose of solid waste and should not be disturbed without investigating the potential for adverse effects to the environment or to the proposed use of the property; and

(d) Perform other necessary corrective work required by the cabinet, if any, before the landfill closure care certification is accepted and financial responsibility funds are released.

FRANK DICKERSON, Commissioner
CARL H. BRADLEY, Secretary

APPROVED BY AGENCY: January 9, 1990

FILED WITH LRC: January 15, 1990 at 9 a.m.

PUBLIC HEARING: A public hearing to receive comments on this proposed regulation will be conducted February 22, 1990 at 10 a.m. (EDT), in the first floor auditorium of the New State Office Building, High and Clinton Streets, Frankfort, Kentucky. Persons interested in attending this public hearing shall notify in writing at least five days prior to the hearing: David W. Morgan, Division of Waste Management, Frankfort Office Park, 18 Reilly Road, Frankfort, Kentucky 40601. Persons wishing to submit written comments without attending the hearing may do so, if the written comments are received in the Frankfort office of the Department for Environmental Protection by 4:30 p.m.(EDT) on February 22, 1990.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Susan C. Bush, Director

(1) Type and number of entities affected: There are approximately 39 inert landfills presently permitted. Approximately 15 will remain as construction/demolition debris landfills.

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

1. First year: The cost to develop an inert landfill is $15,000 to $25,000 per acre. The cost of the proposed construction/demolition debris landfill is projected to be approximately $50,000 per acre, assuming an acre of landfill can contain 65,000 cubic yards of waste. The increased cost of this rule will be less than one dollar per cubic yard.

2. Continuing costs or savings: The continuing costs will be less than one dollar more per cubic yard of material disposed.

3. Additional factors increasing or decreasing costs (note any effects upon competition): The estimated costs depend on: 1) Size of landfill; 2) Location and site characteristics (see 401 KAR 48:050); 3) Availability of wastes acceptable for disposal; and 4) If the landfill is new or upgrading from another classification.

(b) Reporting and paperwork requirements: The new recordkeeping and environmental reporting may cost approximately $18,000 per site per year.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: It is anticipated that one-half person year of staff resources will be needed to manage the increased requirements of this rule in the first year.

2. Continuing costs or savings: The full implementation of this rule will require one person year of staff effort.

3. Additional factors increasing or decreasing costs: The number of applications received cannot be accurately projected.

(b) Reporting and paperwork requirements: The recordkeeping and environmental monitoring reports will each be required on a regular interval of 3 months and the application forms will be revised.

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) The thickness of the cap is a design element that was changed.

Alternative: 1. Less stringent: The present regulation states that two feet of soil must cover the final site. This is not adequate to stop infiltration of rainwaters which leads to increased leachate production.

2. More stringent: The division discussed using two feet of clay in the cap. This seemed to be excessive.

3. Present proposal: The cap design is proposed to be one foot of clay, a drainage layer, and three feet of vegetative soil.

(b) The liner system for new sites was discussed and a new design is proposed.

Alternative: 1. Less stringent: The present regulations include a two foot soil liner and no leachate collection. This will not protect public health and the environment from leachate that exceeds protection standards.

2. More stringent: A two foot clay liner was considered and rejected as being excessive.

3. Present proposal: The liner design for new sites is one foot of clay and a total leachate underdrain system. This is considered to be adequate to control potential contaminants and properly managed leachate.

(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: There is no conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no conflict.

(6) Any additional information or comments: There are no additional comments.

TIERING: Was tiering applied? Yes. This proposed regulation applies only to construction/demolition debris landfills. The regulations of 401 KAR Chapters 47 and 48 use multiple tiering systems. Permit-by-rule in 401 KAR 47:150, and granted permit-by-rule in 401 KAR 47:110 give certain practices and management activities a method of avoiding full permits. Emergency permits and research, development and demonstration permits in 401 KAR 47:150 provide permitting mechanisms for certain situations. The 3 solid waste landfills (contained, residual and construction/demolition debris) and the 3 classes of landfarming provide for a tiering mechanism based on the type and quality of the waste received.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Subtitle D of the Resource Conservation and Recovery Act is the federal waste statute. 40 CFR Part 257 establishes standards for classification of open dumps and Kentucky has adopted a form of these as the "environmental performance standards," currently in 401 KAR 30:030, but which are proposed in 401 KAR 47:030. Under a 1984 amendment to the Resource Conservation and Recovery Act, the U.S. EPA was required to revise their existing solid waste regulations for facilities receiving household hazardous wastes or hazardous wastes from persons who generate less than 220 pounds per month. The federal law specifies in Section 4010(c) that, at a minimum, the revisions shall include groundwater monitoring to detect contamination, establish criteria for the acceptable location of new or existing facilities, and provide for corrective action as appropriate. On August 30, 1988, the federal government proposed revisions to the existing solid waste regulations. If the administrator of the U.S. EPA determines that a state has not adopted an adequate permit the EPA may enforce the revised federal criteria at facilities that may receive household hazardous wastes and hazardous wastes from persons who generate less than 220 pounds per month.

2. State compliance standards. KRS Chapter 224 is the environmental protection authority for the Commonwealth of Kentucky. This proposed regulation sets forth the technical requirements for construction/demolition debris landfills, and requires collection and management of leachate and groundwater monitoring. The federal law requires states to adopt a permitting procedure but the proposed federal regulations do not adopt a federal standard. This proposed regulation continues the current state procedures while drawing procedural language from the federal permitting regulations.

3. Minimum or uniform standards contained in the federal mandate. The Resource Conservation and Recovery Act imposes no permitting standards for solid waste disposal not related to hazardous waste activities. The federal government requires that each state have a program to eliminate open dumps.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The federal government requires that states try to eliminate open dumps. Our permitting process mandates standards to eliminate open dumping, poor siting, and inadequate designs.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The federal government has no permitting authority for solid waste sites. The only criteria are that states eliminate open dumps. The proposed regulation will impose specific standards for solid waste landfills that accept construction/demolition debris and similar wastes in order to provide a greater degree of public health and environmental protection.

NATURAL RESOURCES & ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 48:070. Design requirements for contained landfills.

RELATES TO: KRS 224.005 through 224.110, 224.830 through 224.888, 224.994

STATUTORY AUTHORITY: KRS Chapter 13A, 224.033, 224.842

NECESSITY AND FUNCTION: KRS Chapter 224 requires the cabinet to adopt rules and regulations for the management, processing or disposal of wastes. KRS 224.842 requires that persons engaging in the management, processing and disposal of waste obtain a permit. This chapter establishes the minimum technical standards for solid waste sites or facilities. This regulation sets forth the design requirements for contained landfills.

Section 1. General. The owner or operator of a contained landfill shall ensure a design for disposal of solid wastes meeting the requirements of 401 KAR Chapters 47 and 48.

Section 2. Surface Water. Owners or operators shall design landfills to ensure that:

(1) Surface water flows and leachate are separated;

(2) Surface contours minimize surface water running onto or through the operational or completed fill area;

(3) Surface run-on and run-off ditches control a 100 year twenty-four (24) hour storm flow;

(4) Surface water sediment basins meet the following criteria:

(a) The minimum retarding storage volume and the principal spillway discharge shall be such that emergency spillway discharge shall not occur during the twenty-five (25) year twenty-four (24) hour storm event;

(b) The emergency spillway shall be capable of controlling a 100 year twenty-four (24) hour storm event with no flow overtopping the structure; and

(c) The sediment storage capacity shall be for a minimum of one (1) year of operation. The criteria for determining when the pond is to be cleaned shall be stated in the design plan.

(5) All designs shall be verified by the unit hydrograph method of calculation unless another method is approved by the cabinet.

(6) The edge of the downhill toe of the slope of a sediment pond dam is at least fifty (50) feet from the property line.

Section 3. Seismic Impact Zones. At a new contained solid waste landfill unit located in a seismic impact zone, all containment structures, including liners, leachate collection systems, and surface water control systems shall be designed to resist the maximum anticipated horizontal acceleration in lithified material for the site.

Section 4. Unstable Areas. The owner or operator of a contained solid waste landfill unit located in an unstable area shall demonstrate to the cabinet that engineering measures have been incorporated into the unit's design to ensure the stability of the liners, leachate collection systems, final cover, run-on

and run-off systems, and any other component necessary for the protection of human health and the environment. The owner or operator shall consider the following factors, at a minimum, when determining whether an area is unstable:

(1) On-site or local soil conditions that may result in significant differential settling;

(2) On-site or local geologic or geomorphologic features; and

(3) On-site or local human-made features (both surface and subsurface).

Section 5. Separate Areas for Handling Nonresidential Wastes. The applicant shall design an area separate from the daily working face to allow the safe handling of certain wastes. Separate areas are required for the handling of:

(1) Loads containing burning waste;

(2) Wastes from pick-up trucks and automobiles;

(3) Construction/demolition debris destined for a seperate unit at the landfill meeting the requirements of 401 KAR 48:060; and

(4) Salvageable and recyclable materials when the facility intends to manage these materials.

Section 6. Equipment Requirements. (1) Sufficient equipment shall be available to spread and compact all wastes within two (2) hours of receipt.

(2) Steel-wheeled compactors designed for landfill operation shall be specified for residential solid waste compaction.

(3) The owner or operator shall provide the landfill equipment required to:

(a) Handle all daily, interim, long-term and final cover requirements;

(b) Maintain all roads and drainage features;

(c) Provide dust suppression;

(d) Maintain leachate and methane gas systems; and

(e) Properly compact waste at peak receipt rates. These rates shall be determined in tons per hour and kept on file with the cabinet.

(4) Back-up equipment shall be available for waste spreading and compaction, application of daily cover and maintenance of leachate systems within twenty-four (24) hours of primary equipment incapacitation.

(5) Landfill compactors shall have a minimum gross ground pressure of 325 pounds per linear inch of wheel width.

(6) Any equipment used for compaction shall have a minimum gross weight of 30,000 pounds and a minimum of 130 engine horsepower.

(7) Each piece of equipment shall have the standard landfill guard package offered by the manufacturer, or an otherwise reasonable adaptation, to provide protection from waste damage hazards and other landfill operating hazards.

(8) Each piece of landfill equipment shall comply with the Occupational Safety and Health Standards in Title 803 of the Kentucky Administrative Regulations.

(9) The operator shall propose an equipment operating and maintenance recordkeeping system. The system shall, at a minimum, track the availability of each piece of equipment in subsections (1) and (4) of this section.

(10) Each piece of landfill equipment to be used for primary compaction and cover purchased after the effective date of this regulation shall have enclosed, pressurized cabs with heating and cooling.

(11) Any equipment used for waste compaction shall have a specified maximum rated capacity.

Section 7. Compaction. For residential solid waste, the in-place waste density goal shall be to achieve greater than 1200 pounds per cubic yard in the completed cells. The density shall be determined by dividing the total weight of waste received by the cubic yards of airspace used. The landfill density shall be computed annually.

Section 8. Soil Requirements. The design of borrow areas and disposal cells shall ensure that enough soil is available to meet the requirements for liner and cap construction in 401 KAR 48:080 and the requirements for cover in 401 KAR 48:090.

Section 9. Personnel and Equipment Buildings.

(1) Each landfill shall have buildings for its employees which provide the following:

(a) Air conditioning or tight, insect repelling screens on all doors and windows. Screen access doors shall have automatic closures. Screened buildings shall have proper mechanical ventilation;

(b) Safe drinking water;

(c) Sanitary facilities; and

(d) Heat.

(2) Each landfill site shall include a building for maintenance of the equipment. The building shall be large enough to hold the largest piece of equipment required for site operation. The building shall be heated for winter repair operations.

(3) Each building shall have an alarm installed in accordance with the manufacturer's recommendations to detect the presence of explosive gases.

Section 10. Explosive Gas Program. (1) The application for a contained landfill unit shall include a quarterly methane monitoring program to ensure that the standards of Section 11 of 401 KAR 47:030 are met.

(2) The methane monitoring system shall be developed based on the following factors:

(a) Soil transmissivity;

(b) The hydrogeologic conditions surrounding the disposal site;

(c) The hydraulic conditions surrounding the disposal site; and

(d) The location of facility structures and property boundaries.

(3) The minimum frequency of monitoring shall be quarterly.

(4) A passive gas venting system shall be designed for all landfills. A minimum of one (1) passive vent shall be required per acre of landfill to be filled.

Section 11. Roads. (1) The owner or operator shall design a road from the publicly maintained highway to the landfill, if one does not exist.

(2) Each landfill shall have a perimeter road around all waste disposal areas and to all monitoring and sediment control structures.

(3) Internal roads shall be all weather and designed for construction to within 200 feet of the daily working face.

(4) Narrow roads shall have properly spaced sections of sufficient width to allow passage of two (2) vehicles in the opposite direction.

(5) Roads shall be designed to carry the

normal traffic and to properly drain.
(6) Enough space on the landfill property shall be provided for trucks awaiting entry. The landfill shall be designed to ensure that trucks can enter the site without delay from public roadways.

Section 12. Safety and Communication Plan. The landfill safety and communication plan shall contain:
(1) The safe operating and maintenance procedures for heavy equipment;
(2) Procedures to protect employees in a manner complying with the Kentucky Labor Cabinet OSHA requirements;
(3) A description of equipment to achieve emergency communication. At a minimum the applicant shall specify an on-site telephone or a two-way radio connection to an off-site telephone. The radio base station shall be monitored during landfill operations; and
(4) A fire fighting contingency plan containing a topographic map denoting the location of the landfill, a site map and an emergency contact. The operator shall mail a copy of the safety and communications plan to the local fire chief. The plan shall include the location of fire fighting water sources, roads, and major site features.

Section 13. Scales. Scales shall be provided to weigh all incoming wastes.

Section 14. Leachate Storage Tanks. In addition to the requirements set forth in this regulation, 401 KAR 47:180 and 401 KAR 47:190, an application for a permit to construct a contained landfill that includes a tank for leachate storage shall contain:
(1) The estimated volume of leachate to be generated and a proposed system to record actual quantities stored and removed;
(2) A schedule of liquid removal;
(3) A description of the final treatment and disposal of the liquid stored;
(4) A description of the liquid storage facility design;
(5) A method to measure the quantity of leachate generated and disposed;
(6) A closure plan for the tanks; and
(7) Design criteria to ensure that on-ground, in-ground, underground, and above ground tanks are constructed of materials, and installed in such a manner, that the tank system shall contain the stored liquid for the active life of the site to include closure care.

Section 15. Closure. (1) The operator of a contained solid waste landfill shall close each landfill unit in a manner that minimizes the need for further maintenance and minimizes the closure care formation and release of leachate and explosive gases to air, groundwater, or surface water to the extent necessary to protect human health and the environment as required by 401 KAR 47:030.
(2) The owner or operator shall prepare a closure plan that describes the steps necessary to close all units of the contained solid waste landfill at any point during its active life in accordance with the closure performance standard in subsection (1) of this section. The closure plan shall contain:
(a) An overall description of the methods, procedures, and processes that shall be used to close each unit of a contained solid waste landfill in accordance with the closure performance standard in subsection (1) of this section and the final cap system requirements in Section 9 of 401 KAR 48:080;
(b) An estimate of the maximum extent of operation that shall be open at any time during the active life of the landfill; and
(c) A schedule for completing all activities necessary to satisfy the closure performance standard.
(3) Any modification to the closure plan shall be approved by the cabinet. A copy of the most recent approved closure plan shall be kept at the facility until closure of the contained landfill has been certified in accordance with subsection (5) of this section and the owner or operator has been released from financial assurance requirements for closure under 401 KAR 48:310.
(4) The owner or operator shall begin closure activities of each landfill unit, in accordance with the approved closure plan, no later than thirty (30) days following the final receipt of wastes at that landfill unit. Closure of each unit shall be completed within 180 days of final receipt of waste.
(5) Following closure of each contained solid waste landfill unit, the owner or operator shall submit to the cabinet a certification by a professional engineer that closure has been completed in accordance with the approved closure plan.

Section 16. 401 KAR 47:040, entitled Sanitary landfills, is hereby repealed.

FRANK DICKERSON, Commissioner
CARL H. BRADLEY, Secretary
APPROVED BY AGENCY: January 9, 1990
FILED WITH LRC: January 15, 1990 at 9 a.m.
PUBLIC HEARING: A public hearing to receive comments on this proposed regulation will be conducted February 22, 1990 at 10 a.m. (EDT), in the first floor auditorium of the New State Office Building, High and Clinton Streets, Frankfort, Kentucky. Persons interested in attending this public hearing shall notify in writing at least five days prior to the hearing: David W. Morgan, Division of Waste Management, Frankfort Office Park, 18 Reilly Road, Frankfort, Kentucky 40601. Persons wishing to submit written comments without attending the hearing may do so, if the written comments are received in the Frankfort office of the Department for Environmental Protection by 4:30 p.m.(EDT) on February 22, 1990.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Susan C. Bush, Director
(1) Type and number of entities affected: There are currently 2 contained landfills in Kentucky. Other classifications of landfills will be given the option of upgrading to contained landfill status or closing the facility. This will affect 20-30 residential landfills currently in existence.
(a) Direct and indirect costs or savings to those affected:
1. First year: The cost to implement this rule will not affect existing landfills in the first year. New applicants will be required to comply with these requirements. Existing facilities

will have six months from the effective date of these regulations to decide whether to upgrade or close. It will cost approximately $20,000 to $50,000 to make this determination. If facilities continue to operate by deciding to upgrade, costs will be incurred for the development of engineering plans and submission of the modification applications to the cabinet. Submission of a closure plan will be less expensive.

2. Continuing costs or savings: Continuing costs will be incurred as facilities implement the construction plans approved by the cabinet. It will cost approximately $25 to $40 per ton of waste to operate contained landfills. The proposed regulation will increase the cost of a typical landfill by approximately $500,000 per acre.

3. Additional factors increasing or decreasing costs (note any effects upon competition): The larger sites are more efficient and costs per ton are lower. The number of sites also affect costs.

(b) Reporting and paperwork requirements: There are no additional reporting or paperwork requirements.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The impact of this proposed regulation is not significant. The requirements will be combined with other regulatory requirements in permit application review.

2. Continuing costs or savings: No continuing costs would be borne by the cabinet.

3. Additional factors increasing or decreasing costs: The number of sites would affect the number of modification applications and the time necessary for review.

(b) Reporting and paperwork requirements: The requirements of this regulation will be addressed in a formal permit application.

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) Selection of 25 year/24 hour storm for principal spillway design.

Alternative: 1. Less stringent: The current 10 year/24 hour storm design would not meet proposed federal requirements.

2. More stringent: A 100 year/24 hour storm pond would require treatment for silt before discharge through the emergency spillway.

3. Present proposal: The 25 year/24 hour storm meets proposed federal criteria and provides silt treatment for 24 hour storms of 5 to 6 inches of precipitation.

(b) Seismic impact zones for new landfill units.

Alternative: 1. Less stringent: The rules could have no reference to seismic activities. However, the absence would fail to meet proposed federal criteria and allow breeching of liners and caps during an earthquake.

2. More stringent: The cabinet could have mandated specific seismic activity requirements for liners and caps. However, such specifications would not be site-specific and would greatly increase costs.

3. Present proposal: The proposed rule meets federal requirements and allows engineers to design for specific sites.

(c) Separate areas for handling nonresidential wastes.

Alternative: 1. Less stringent: Failure to include the requirement could lead to fires, accidents, unrecyclable wastes and use of expensive contained landfill space by construction/demolition debris.

2. More stringent: The cabinet could have specified design requirements for these areas.

3. Present proposal: The rule acts as a "checklist" and allows the engineer design flexibility.

(d) Compactors for all landfills.

Alternative: 1. Less stringent: Absence of the rule would lead to use of more landfill space for the same amount of wastes. This would result in higher site and permitting costs. Also, decreased compaction leads to excessive settlement, cap cracking, water infiltration and possible groundwater contamination.

2. More stringent: A more stringent requirement would require compactors at existing residential landfills. This is not necessary for the residential sites that will close by the required closure date.

3. Present proposal: Compactors provide the most efficient use of landfill space.

(e) Scales for landfills accepting more than fifty tons per day (versus 200 currently).

Alternative: 1. Less stringent: Current requirements of 200 tons per day measure only about 60% of the waste.

2. More stringent: A more stringent requirement would require scales at all residential landfills. This is not warranted for sites that will close within the near future.

3. Present proposal: Requiring scales for all contained landfills accepting more than 50 tons per day is necessary to capture data useful to solid waste management.

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

(a) Necessity of proposed regulation if in conflict: There are no conflicts.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There are no conflicts.

(6) Any additional information or comments: There is no additional information.

TIERING: Was tiering applied? Yes. This proposed regulation only applies to contained landfills. The regulations of 401 KAR Chapters 47 and 48 use multiple tiering systems. Permit-by-rule in 401 KAR 47:150 and granted permit-by-rule in 401 KAR 47:110 give certain practices and management activities a method of avoiding full permits. Emergency permits and research, development and demonstration permits in 401 KAR 47:150 provide permitting mechanisms for certain situations. The three types of solid waste landfills (contained, residual and construction/demolition debris) and the three classes of landfarming provide for a tiering mechanism based on the type and quality of the waste received.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Subtitle D of the Resource Conservation and Recovery Act is the federal solid waste reference. 40 CFR Part 257

establishes standards that all solid waste disposal facilities must meet. The proposed 40 CFR Part 258 establishes minimum municipal solid waste landfill standards. Under a 1984 amendment to the Resource Conservation and Recovery Act, the U.S. EPA was required to revise their existing solid waste regulations for facilities receiving household hazardous wastes or hazardous wastes from persons who generate less than 220 pounds per month. The federal law specifies in Section 4010(c) that, at a minimum, the revisions shall include groundwater monitoring to detect contamination, establish criteria for the acceptable location of new or existing facilities, and provide for corrective action as appropriate. On August 30, 1988, the federal government proposed revisions to the existing solid waste regulations. If the administrator of the U.S. EPA determines that a state has not adopted an adequate permit, the EPA may enforce the revised federal criteria at facilities that may receive household hazardous wastes and hazardous wastes from persons who generate less than 220 pounds per month.

2. State compliance standards. KRS Chapter 224 is the environmental protection statute. The federal law requires states to adopt a permitting procedure but the proposed federal regulations do not adopt a federal standard. This proposed regulation continues the current state procedures while drawing procedural language from the federal permitting regulations.

3. Minimum or uniform standards contained in the federal mandate. The proposed 40 CFR Part 258 contains standards for: 25 year/24 hour sediment pond design; seismic impact design; unstable area design; explosive gas monitoring.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The proposed regulation would incorporate standards for the areas mentioned in item #3. The remaining items would repeat current state requirements or provide more explicit guidance for complying with 40 CFR Part 257 and the proposed 40 CFR Part 258.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The federal government believes that permitting solid waste landfills is a state responsibility. 40 CFR Part 257 and the proposed 40 CFR Part 258 are guidelines for states to follow in establishing their regulations. The federal government intentionally made their code flexible so states could be more specific for their geography.

NATURAL RESOURCES & ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 48:080. Liner and cap design requirements for contained landfills.

RELATES TO: KRS 224.005 through 224.110, 224.830 through 224.889, 224.994

STATUTORY AUTHORITY: KRS Chapter 13A, 224.033, 224.842

NECESSITY AND FUNCTION: KRS Chapter 224 requires the cabinet to adopt rules and regulations for the managing, processing, or disposal of solid wastes. KRS 224.842 requires that persons engaging in the managing, processing, or disposal of waste obtain a permit. This chapter establishes the minimum technical standards for solid waste sites or facilities. This regulation sets forth the liner and cap design requirements for contained landfills.

Section 1. Liners for Contained Landfills. At a minimum all contained landfills shall have:

(1) A primary composite liner as specified in Section 2 of this regulation; and

(2) A secondary composite liner that:

(a) Meets the secondary liner criteria specified in Section 2 of this regulation; or

(b) Is a naturally occurring material provided that such natural material:

1. Shall have a minimum thickness of twenty (20) feet and shall have a maximum permeability of 1×10^{-7} centimeters per second;

2. Shall lie above the uppermost aquifer; and

3. Shall continuously underlie the landfill site or facility and be demonstrated to have sufficient integrity to protect the uppermost aquifer from contamination in the event of a breech of the primary composite liner.

Section 2. Components of Contained Landfill Liner Systems. Once the subgrade is established, the primary and secondary liner systems shall consist of the layers, listed in subsections (1) through (3) of this section.

(1) The secondary liner system shall consist of the following layers, listed from bottom to top:

(a) A twelve (12) inch soil layer with a permeability of 1×10^{-7} centimeters per second as specified in Section 4 of this regulation;

(b) A secondary synthetic liner as specified in Section 5 of this regulation; and

(c) A twelve (12) inch drainage layer with a permeability of 1×10^{-3} centimeters per second or layer of equivalent performance.

(2) The secondary liner system may be substituted for by a naturally occurring material as specified in Section 1(2) of this regulation.

(3) The primary liner shall consist of the following layers, listed from bottom to top:

(a) A filter fabric or other material approved by the cabinet if a secondary liner system as specified in subsection (1) of this section is used;

(b) A thirty-six (36) inch clay layer with a permeability of 1×10^{-7} centimeters per second as specified in Section 6 of this regulation;

(c) A primary synthetic liner as specified in Section 5 of this regulation;

(d) A twelve (12) inch drainage layer with permeability of 1×10^{-2} centimeters per second or a layer of equivalent performance as specified in Section 6 of this regulation; and

(e) A filter fabric or other material approved by the cabinet to protect the integrity of the drainage layer.

Section 3. Specific Landfill Subgrade Requirement. The landfill subgrade is the uppermost in situ rock layer, in situ soil layer or select fill that shall be graded and prepared for landfill construction. For lateral expansions adjacent to existing landfills, the cabinet may approve encroachment upon the

existing landfill's side slope if a leachate barrier system is designed and construction to intercept leachate and prevent its migration into the existing landfill.

(1) Materials required. The landfill subgrade material shall be free of organic material and consist of in situ bedrock, on-site soils, or any select fill with the structural ability to support the landfill maximum load with a factor of safety of two (2.0).

(2) Construction requirements. The landfill subgrade shall be graded in accordance with the requirements of the approved engineering plans, report, and specifications. The material shall be sufficiently dry and structurally sound to ensure that the first lift and all succeeding lifts of soil placed over the landfill subgrade can be adequately compacted to the design requirements.

(3) Certification requirements. At a minimum, the subgrade surface shall be inspected in accordance with the following requirements:

(a) Before placing any material over the subgrade, the project engineer shall visually inspect the exposed surface to evaluate the suitability of the subgrade and ensure that the surface is properly compacted, smooth, uniform, and has positive surface drainage;

(b) Soil subgrade shall be proof-rolled using a minimum 100,000 pound loaded four (4) tire scraper (twenty (20) cubic yard size) or equivalent procedure and equipment approved by the cabinet;

(c) Soil subgrade shall be tested for density and moisture content at a minimum frequency of nine (9) tests per acre. The subgrade shall be compacted to a density of at least ninety (90) percent of maximum density as determined by the cabinet; and

(d) Sufficient cross sections shall be taken showing the finished elevation of the completed subgrade, referenced to existing site control. These cross sections shall serve as documentation and reference data for all future volume calculations.

Section 4. Specific Soil Component Requirements of Landfill Liner Systems. The soil component of the landfill liner system shall be a continuous layer of low permeability soil constructed to control fluid migration.

(1) Low permeability soil components shall have a maximum remolded coefficient of permeability of 1×10^{-7} centimeters per second. The soil shall be placed without damaging any collection and removal system components. The soil material shall be free of tree roots, wood or other decayable materials and rock particles greater than three (3) inches in any dimension. The soils shall be compacted to a minimum of ninety-two (92) percent of the standard proctor density.

(2) Construction requirements. The project engineer shall ensure that the soil component of the liner system installation conforms to the following minimum requirements:

(a) The soil component of the liner system shall be placed on a slope of no less than three (3) percent to promote positive drainage across the liner surface and at a maximum slope not greater than fifty (50) percent.

(b) Compaction shall be performed by properly controlling the moisture content, lift thickness, and other necessary details to obtain the density, moisture and permeability characteristics specified in 401 KAR Chapter 48. The maximum final compacted thickness of each lift of soil material shall be six (6) inches.

(c) During construction the moisture content of the soil component of the liner system shall be maintained within the range identified in accordance with the certification requirements to ensure that the remolded lift attains the required permeability.

(3) Certification requirements. The project engineer shall include in the construction certification report a discussion of all required quality assurance and quality control testing. The testing procedures and protocols shall be submitted and approved by the cabinet. The results of all testing shall be included in the construction certification report including documentation of any failed test results, descriptions of the procedures used to correct the improperly installed material, and statements of all retesting performed in accordance with the following requirements:

(a) The project engineer shall certify the results of the quality control testing of any soil liner materials. The intent of the quality control testing is to ensure that the specified material meets the permeability requirements of subsection (1) of this section. Before and during construction of the soil component of the liner system, the following minimum testing and classification shall be performed:

1. Determination of the classification of soils for engineering purposes using test methods approved by the cabinet:

a. One (1) analysis of soil particle size for every 2,000 cubic yards of soil liner material placed from the same source. Additional analyses shall be performed if the source of material is changed or if a different soil type is encountered from the same source.

b. One (1) Atterberg limits analysis of plastic and liquid limit and plasticity index as approved by the cabinet for every 2,000 cubic yards of soil liner material placed;

2. One (1) moisture content test for every 2,000 cubic yards of material placed; and

3. A minimum of one (1) comparison of the moisture-density-permeability relation for every 20,000 cubic yards of material placed and one (1) each time soil material changes are noted. A minimum of three (3) laboratory permeability tests shall be performed using a triaxial cell with backpressure. The specimen used for each permeability test shall be remolded at the same moisture content which shall be equal to or not greater than four (4) percent above the optimum moisture content. The comparison shall be based on a semilog plot of percent maximum density versus permeability with at least one (1) point below and one (1) point above the target permeability value.

(b) Quality assurance testing included in this paragraph shall be compared to and evaluated against the quality control testing of paragraph (a) of this subsection where applicable. Quality assurance testing shall include:

1. At least nine (9) density tests per acre per lift of soil material placed;

2. A minimum of nine (9) moisture content tests per acre per lift of soil material placed; and

3. All moisture-density testing performed using nuclear methods.

Section 5. Specific Synthetic Liner Requirements. A synthetic liner is a low permeability manmade material having a maximum coefficient of permeability of 1×10^{-12} centimeters per second and is used to control fluid migration from landfills.

(1) Materials required. The synthetic liner material shall have a demonstrated hydraulic conductivity less than 1×10^{-12} centimeters per second and chemical and physical resistance not adversely affected by waste placement or leachate generated. Documentation shall be submitted to ensure chemical compatibility of the synthetic liner material chosen or, in absence of the appropriate documentation, chemical compatibility testing shall be performed using a test method acceptable to the cabinet.

(2) Construction requirements. Synthetic liners shall be installed in accordance with the requirements of the approved engineering plans, report, and specifications and manufacturer's recommendations. The project engineer shall ensure that the synthetic liner installation, at a minimum, shall conform with the following:

(a) The synthetic liner shall have a minimum thickness of sixty (60) mils;

(b) The synthetic liner shall be installed on a subgrade that has a minimum three (3) percent slope to promote positive drainage;

(c) Synthetic liners installed on slopes greater than twenty-five (25) percent shall be designed to withstand the calculated tensile forces acting upon the synthetic material, and shall ensure that overall slope stability is maintained;

(d) The surface of the supporting soil below which the synthetic liner shall be installed shall be reasonably free of stones, organic matter, irregularities, protrusions, loose soil, and any abrupt changes in grade that may damage the synthetic liner. The supporting soil shall conform to the requirements of Section 4 of this regulation;

(e) The anchor trench shall be excavated to the length and width prescribed on the approved design drawings;

(f) Field seams shall be oriented parallel to the line of maximum slope, i.e., oriented along, not across the slope. In corners and irregularly-shaped locations, the number of field seams shall be minimized;

(g) The materials shall be seamed using an appropriate method acceptable to the cabinet. Seam testing shall be in accordance with the requirements of subsection (3) of this section;

(h) The seam area shall be free of moisture, dust, dirt, debris, and foreign material of any kind before seaming; and

(i) Field seaming shall be prohibited when the ambient air temperature is below five (5) degrees celsius, above forty (40) degrees celsius, during precipitation, or when winds are in excess of twenty (20) miles per hour.

(3) Certification requirements. The project engineer shall include in the construction certification report a discussion of the approved data resulting from the quality assurance and quality control testing required in this paragraph. The results of all testing shall be included in the construction certification report including documentation of any failed test results, descriptions of the procedures used to correct the failed material, and statements of all retesting performed.

(a) The project engineer shall certify the quality control testing of the synthetic liner ensuring that the material and workmanship meet the requirements of the approved engineering plans, reports, and specifications. Before installing a synthetic liner, the following information shall be available to the project engineer for approval:

1. Origin and identification of the raw materials used to manufacture the synthetic liner;

2. Copies of quality control certificates issued by the producer of the raw materials used to manufacture the synthetic liner; and

3. Reports of tests conducted to verify the quality of the raw materials used to manufacture the synthetic liner. Tests for specific gravity, melt flow index, and percent carbon black shall be performed using a method acceptable to the cabinet.

(b) The project engineer shall verify through appropriate documentation that the quality control testing of any synthetic rolls fabricated into blankets at the factory took place in accordance with the following requirements:

1. The synthetic liner was continuously inspected for uniformity, damage, imperfections, holes, cracks, thin spots, and foreign materials. Additionally, the synthetic liner shall be inspected for tears, punctures, and blisters. Any imperfections shall be immediately repaired and reinspected;

2. Nondestructive seam testing was performed on all fabricated seams over their full length using a test method acceptable to the cabinet; and

3. A destructive seam testing was performed on a minimum of two (2) samples per blanket. The samples shall be taken from extra material at the beginning or end of blanket seams such that the blanket is not damaged and the blanket geometry is not altered. The size of the sample taken shall be large enough to perform the required testing. An independent laboratory acceptable to the cabinet shall perform the required testing on the samples taken. If a sample fails a destructive test, the entire seam length shall be reconstructed or repaired using a method acceptable to the cabinet and retested using nondestructive seam testing over its full length using a test method acceptable to the cabinet.

(c) Quality assurance testing performed in the field under the supervision of the project engineer shall assure conformity of the synthetic liner installation with the engineering plans, reports, and specifications submitted in accordance with the following requirements:

1. During the construction phase, the synthetic liner shall be inspected for uniformity, damage, and imperfections. The liner shall be inspected for tears, punctures, or blisters. Any imperfections shall be immediately repaired and reinspected;

2. All field seams shall be nondestructively tested in accordance with the procedures listed in this clause using a test method acceptable to the cabinet. The project engineer shall supervise all nondestructive testing; record the location, date, test unit number, name of tester, and results of all testing; inform the installer of any required repairs; and overlay all seams which cannot be nondestructively

tested with the same synthetic liner. The seaming and patching operation shall be inspected by the project engineer for uniformity and completeness; and

3. Destructive testing shall be performed on the synthetic liner seam sections in accordance with the following requirements and using test methods acceptable to the cabinet. Seam samples for testing shall be taken as follows: a minimum of one (1) test per every 500 feet of seam length unless a more frequent testing protocol is agreed upon by the installer and project engineer; additional test locations may be determined during seaming at the project engineer's discretion; and all test locations shall be appropriately documented. The project engineer shall approve the sample size to be taken. The sample size shall be predetermined as being large enough to perform the required testing. An independent laboratory acceptable to the cabinet shall perform the required testing which shall include, as a minimum, testing for seam strength and peel adhesion using testing procedures acceptable to the cabinet. If a sample fails destructive testing the project engineer shall ensure that the seam is reconstructed between the location of the sample which failed and the location of the next acceptable sample; or the welding path is retraced to an intermediate location at least ten (10) feet from the location of the sample which failed the test, and a second sample is taken for an additional field test. If this second test sample passes, the seam shall then be reconstructed between the location of the second test and the original sampled location. If the second sample fails, this process shall be repeated. All acceptable seams shall lie between two (2) locations where samples passed the required test procedures of this section and include one (1) test location along the reconstructed seam.

Section 6. Primary Liner System. The liner shall be designed using the following specifications:

(1) A thirty-six (36) inch thick low permeability soil layer having a remolded coefficient of permeability of 1×10^{-7} centimeters per second and compacted to a minimum of ninety-two (92) percent standard proctor density;

(2) A sixty (60) mil thick synthetic liner having a maximum coefficient of permeability of 1×10^{-12} centimeters per second and not adversely affected by the leachate or loading from the operational landfill;

(3) A leachate collection and removal system consisting of a twelve (12) inch thick granular material layer with a leachate collection pipe network. This collection system shall be designed to achieve a maximum hydraulic head on the primary composite liner no greater than twelve (12) inches. The granular material shall have a minimum coefficient of permeability of 1×10^{-2} centimeters per second. The physical and chemical properties of the granular material and pipe shall not be adversely affected by the loads or leachate generated by the operations of the landfill. Alternate materials proposed to function as a substitute for the granular soil layer shall be demonstrated to be equivalent in performance for leachate drainage and load bearing properties; and

(4) The leachate collection system shall contain a perforated piping system capable of removing leachate from the top surface of the low permeability solid component, and conveying it to a collection point. The drainage system shall meet the following requirements:

(a) Main leachate collection pipes shall have a minimum diameter of eight (8) inches and shall be designed to withstand static and dynamic loads that may be encountered;

(b) The sheet flow drainage distances to the lateral drainage pipes shall not exceed fifty (50) feet;

(c) The lateral pipes shall be installed primarily perpendicular to flow;

(d) The minimum diameter of lateral perforated pipes shall be four (4) inches and shall be designed to withstand static and dynamic loads that may be encountered. The materials used shall at a minimum conform to the specifications for ASTM schedule eighty (80) pipe;

(e) The minimum slope for the piping system shall be one (1) percent;

(f) The leachate collection tank shall be a minimum of 1,000 gallons. Additional capacity shall be provided to store leachate for a minimum of fifteen (15) days production at peak production rates during operation and closure;

(g) The method of leachate disposal shall be described. When it is discharged to the sediment structure, a treatment plant is proposed or other method of discharge is proposed, the KPDES permit shall reflect this provision. When an off-site wastewater treatment plant is used, the applicant shall provide written documentation showing the acceptance of the waste. The criteria for disposal at the wastewater treatment plant shall be stated. The leachate collection system shall have a method to measure the quantity of leachate managed at the site; and

(h) The leachate collection pipe system shall be designed to allow internal inspection, cleaning and maintenance.

(5) A geosynthetic filter fabric or other suitable material shall be placed above the drainage layer to prevent clogging.

Section 7. Slope Considerations. (1) For bottom slopes of less than or equal to twenty-five (25) percent, the owner or operator shall have a liner system meeting the requirements of Section 1 of this regulation.

(2) For bottom slopes of more than twenty-five (25) percent, the owner or operator shall have a liner system meeting the requirements of Section 1 of this regulation, except that:

(a) The owner or operator may replace the granular soil layers in the leachate collection and hydraulic relief systems with synthetic drainage netting designed and constructed to have an equivalent transmissivity to that of a twelve (12) inch gravel layer with a minimum coefficient of permeability of 1×10^{-2} centimeters per second and shall be not adversely affected by leachate generated by the landfill; or

(b) The owner and operator shall demonstrate the stability of the composite liner, the lower construction foundation layer and the underlying supporting natural subsoils.

Section 8. Final Cap System. At a minimum the final cap shall consist of a layered system. Each layer shall have the same slope of between five (5) and twenty-five (25) percent. The components, listed from bottom to top, are:

(1) A filter fabric or other material approved by the cabinet;
(2) A twelve (12) inch sand gas venting system with a minimum permeability of 1 X 10^{-3};
(3) A filter fabric or other material approved by the cabinet;
(4) An eighteen (18) inch clay layer with a maximum permeability of 1 X 10^{-7} centimeters per second;
(5) A twelve (12) inch drainage layer with a minimum permeability of 1 X 10^{-3} centimeters per second; and
(6) A thirty-six (36) inch vegetative soil layer.

Section 9. Final Cap System Specifications. The specifications for final cap component layers are:
(1) A low permeability clay layer listed in Section 8(4) of this regulation shall be compacted to a minimum of ninety-two (92) percent of the standard proctor density;
(2) A drainage layer specified in Section 8(5) of this regulation shall be compacted to a minimum of eighty-five (85) percent of the standard proctor density. Field tile drainage shall be specified as necessary to relieve water captured by this drainage layer;
(3) A vegetative soil layer as specified in Section 8(6) of this regulation shall be sufficient to sustain vegetative growth and prevent root penetration of the underlying layers. A thicker layer may be required by the cabinet to properly retain moisture or meet closure care requirements.
(4) Drainage berms of at least one (1) foot in height or two (2) feet in width shall be placed at the following intervals for the following slopes:
(a) 150 feet at greater than ten (10) percent slope;
(b) 200 feet at slope between five (5) and ten (10) percent. In lieu of drainage berms, the owner or operator may substitute a design with a horizontal terrace of at least fifteen (15) feet width on the slope for every twenty-five (25) feet maximum rise in elevations on the slope. The slope of the terrace shall be five (5) percent into the fill and drainage ditches shall be designed for each terrace to convey precipitation flows. The maximum slope between terraces shall not exceed twenty-five (25) percent; or
(c) The applicant may adjust the drainage berm specifications with design calculations to support alternate designs.
(5) A synthetic liner with a minimum thickness of forty (40) mils and a maximum coefficient of permeability of 1 X 10^{-12} centimeters per second may be substituted for the low-permeability soil cover in Section 8(4) of this section.
(6)(a) The final cover shall be revegetated.
(b) The soil-water pH shall be adjusted and the soil fertilized based upon current soil test results.
(c) The seed bed shall be prepared and temporary nurse crops and permanent grasses planted in accordance with the approved closure plan within thirty (30) days of completion of final cover grading.
(d) The owner or operator shall repeat the above as necessary to achieve permanent vegetation.
(e) The owner or operator shall achieve a minimum of ninety-five (95) percent ground cover by the end of August, two (2) years after application of the final cover.
(f) Erosion controls shall be addressed in the closure plan and constructed as required. All slopes over three (3) percent shall have controls applied at the time of seeding.
(g) The owner or operator shall inspect all areas and perform maintenance and revegetation. At a minimum, the site shall be initially inspected according to this table:

Seeding Date	Follow-up Inspection Date	Complete Revegetation By
Aug. 16-Oct. 15	April 1	June 15
Oct. 16-Mar. 15	June 1	June 30
Mar. 16-Jun. 15	September 1	October 15
Jun. 16-Aug. 15	October 1	October 30

After the initial inspection, follow-up inspections shall be made on April 1, and September 1, with revegetation completed by June 15 and October 15.
(h) After one (1) year, all areas larger than 100 square feet with less than forty (40) percent vegetation shall be tested to determine required revegetation, which shall be completed by September 30.

Section 10. Structural Integrity of Cap and Liner. The design engineer shall analyze the structural integrity of the site, each component of the composite liner, each component of the final cover, the composite liner system and the final cap as a system. Modifications to the design shall be provided where necessary, to achieve a minimum factor of safety of one and one-fourth (1.25) for the structural design of the facility. Synthetic liner material and structural synthetic materials shall be designed for a maximum elongation of ten (10) percent.

FRANK DICKERSON, Commissioner
CARL H. BRADLEY, Secretary
APPROVED BY AGENCY: January 9, 1990
FILED WITH LRC: January 15, 1990 at 9 a.m.
PUBLIC HEARING: A public hearing to receive comments on this proposed regulation will be conducted February 22, 1990 at 10 a.m. (EDT), in the first floor auditorium of the New State Office Building, High and Clinton Streets, Frankfort, Kentucky. Persons interested in attending this public hearing shall notify in writing at least five days prior to the hearing: David W. Morgan, Division of Waste Management, Frankfort Office Park, 18 Reilly Road, Frankfort, Kentucky 40601. Persons wishing to submit written comments without attending the hearing may do so, if the written comments are received in the Frankfort office of the Department for Environmental Protection by 4:30 p.m.(EDT) on February 22, 1990.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Susan C. Bush, Director
(1) Type and number of entities affected: There are 77 operating residential and contained landfills. The facilities that will be affected by this regulation are those that would be expected to upgrade to these standards to remain in operation. The number of facilities expected to be impacted are 38 operating landfills and 8

that are proposed facilities.

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

1. First year: The immediate impact of this regulation will be a revision to the design of landfills with applications pending for new facilities or expansions of existing facilities. There are 27 such applications on file in various stages of review from preliminary to near completion of review. The impact to these facilities will be an increased cost of engineering and construction. The anticipated cost of this design change is $250,000 per acre of landfill. This will be an increase of approximately $1.58 per household per month. These costs will not be fully realized until actual construction takes place. A typical landfill constructing a new cell will build an area of five to twenty acres.

2. Continuing costs or savings: The amount of cost increase per household can be minimized through an increase in the number of households served by each facility.

3. Additional factors increasing or decreasing costs (note any effects upon competition): With the expected reduction in the number of landfills, transportation of waste will be a factor. The distance to the landfill and the number of people using the landfill will increase. Therefore the net increase in cost for solid waste management resulting from a change in design and landfill phaseouts will be about $5 per household per month.

(b) Reporting and paperwork requirements: Design of the liner would be proposed in the permit application.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Additional staff will be necessary to administer the solid waste program. The agency has requested six person years for solid waste permitting.

2. Continuing costs or savings: The staff level must remain to service the needs of the regulated community.

3. Additional factors increasing or decreasing costs: Factors include the number of sites submitting modifications and the number of reviews required, as well as the number of site inspections to verify construction.

(b) Reporting and paperwork requirements: The permit application forms will be revised as a result of these regulatory changes.

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) The inclusion of the synthetic liner(s).

Alternative: 1. Less stringent: A clay liner, by itself, would fail to restrict organics from groundwater and to collect most of the leachate. A flexible membrane provides a uniform low permeability material to ensure drainage of the bottom of a landfill. Organics are nonpolar and do not attach to polar clay particles as readily as metal contaminants.

2. More stringent: Double synthetic liners for all areas of the state would present unnecessary costs in areas of suitable geology.

3. Present proposal: The primary composite and secondary liner provides adequate protection to the groundwater from organic contaminants in areas with adequate naturally occurring materials underlying the site, a single composite liner will provide adequate protection.

(b) Cap design.

Alternatives: 1. Less stringent: The current cap design of 18 inches thick vegetative layer may allow root penetration into the cap in some instances. The 6 inch clay liner may not retard infiltration of rain water.

2. More stringent: More than 36 inches of vegetative layer would increase costs without affording any additional room for roots. Most plants require an 18 to 24 inch root zone. More than 12 inches of clay is not necessary with the 6 inch sand drainage layer to reduce the amount of water pressuring the low permeability layer.

3. Present proposal: The proposal increases cap performance for preventing root penetration of the clay while shedding rainfall. The proposed design provides a moisture reserve for extended periods of dry weather. In conjunction with the liner, the rule is expected to meet federal and state groundwater protection criteria.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: The proposed rule does not conflict, overlap or duplicate any statute, regulation or policy.

(a) Necessity of proposed regulation if in conflict: The proposed rule does not present a conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: The proposed rule does not present a conflict.

(6) Any additional information or comments:

TIERING: Was tiering applied? Yes. The proposed regulation applies to contained landfills. The regulations of 401 KAR Chapters 47 and 48 use multiple tiering systems. Permit-by-rule in 401 KAR 47:150, and granted permit-by-rule in 401 KAR 47:110 give certain practices and management activities a method of avoiding full permits. Emergency permits and research, development and demonstration permits in 401 KAR 47:150 provide permitting mechanisms for certain situations. The 3 types of solid waste landfills (contained, residual and construction/demolition debris) and the 3 classes of landfarming provide for a tiering mechanism based on the type and quality of the waste received.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. The Resource Conservation and Recovery Act, as amended, 40 CFR Part 257 and the proposed 40 CFR Part 258 constitute the federal mandates. Under a 1984 amendment to the Resource Conservation and Recovery Act, the U.S. EPA was required to revise their existing solid waste regulations for facilities receiving household hazardous wastes or hazardous wastes from persons who generate less than 220 pounds per month. The federal law specifies in Section 4010(c) that, at a minimum, the revisions shall include groundwater monitoring to detect contamination, establish criteria for the acceptable location of new or existing facilities, and provide for corrective action as appropriate. On August 30, 1988, the federal government proposed revisions to the existing solid waste regulations. If the administrator of

the U.S. EPA determines that a state has not adopted an adequate permit the EPA may enforce the revised federal criteria at facilities that may receive household hazardous wastes and hazardous wastes from persons who generate less than 220 pounds per month.

2. State compliance standards. KRS Chapter 224 and 401 KAR Chapters 30-49 are the current state compliance standards. The proposed regulation establishes design standards for the liner and cap requirements for contained landfills. The federal law requires states to adopt a permitting procedure, but the proposed federal regulations do not adopt a federal standard. This proposed regulation continues the current state procedures while drawing procedural language from the federal permitting regulations.

3. Minimum or uniform standards contained in the federal mandate. The 40 CFR Part 258 rules in the August 30, 1988, Federal Register propose a groundwater protection standard of between 1 in 10,000 to 1 in 10,000,000 cancer risk, with a time-of-travel to groundwater of more than 20 years. The rule would require the individual states to establish their own liner and cap standards to meet this scientific requirement. One expert estimates that the standard would require a 3 to 5 foot thick clay liner with a one foot sand blanket, containing 6 inch leachate collection pipes, and a cap containing a 3 foot vegetative layer and a 3 foot clay layer in most areas of the nation. The one standard EPA clearly proposes is that for landfills which recirculate leachate, the owner or operator must have a bottom liner of 3 feet of clay and a synthetic or plastic liner.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The single composite liner is equal to that proposed by the federal government for landfills that recirculate leachate. The cap design, with the inclusion of the drainage layer, also meets federal requirements.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The cap and liner designs do not exceed federal requirements. Sites that can qualify for single composite liner systems are those that have shales, limestones interbedded with shale that are not solutioned or similar characteristics and do not have significant secondary porosity (fractures) to prevent detection, interception and recovery of contaminants. The coal fields are similar in geology to West Virginia and Pennsylvania, which have promulgated single and double composite liners, respectively, to address groundwater protection.

401 KAR 48:080 will require a more stringent design when site geology is less than suitable. A second composite liner would be required in Kentucky's areas of vulnerable geology, including karst and highly transmissive geologic units. In these instances contamination of groundwater may be untreatable, resulting in total loss of groundwater for surrounding residences and other users. In karst areas, the areas are unmonitorible by groundwater well systems and must rely on springs located by dye traces. The time for contamination to travel along a solution channel is measured in feet per second, rather than feet per year. Contamination would travel to the user and possibly cause harmful effects before monitoring would even be possible.

NATURAL RESOURCES & ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 48:090. Operating requirements for contained landfills.

RELATES TO: KRS 224.005 through 224.110, 224.830 through 224.889, 224.994

STATUTORY AUTHORITY: KRS Chapter 13A, 224.033, 224.842

NECESSITY AND FUNCTION: KRS Chapter 224 requires the cabinet to adopt rules and regulations for the management, processing, or disposal of solid wastes. KRS 224.842 requires that persons engaging in the management, processing, and disposal of solid waste obtain a permit. This chapter establishes the minimum technical standards for solid waste sites or facilities. This regulation sets forth the requirements for contained landfills.

Section 1. General. The owner or operator of a contained landfill shall operate the facility in accordance with the requirements of KRS Chapter 224 and the regulations promulgated pursuant thereto, the conditions of the solid waste permit issued by the cabinet, and the approved application filed with the cabinet.

Section 2. Procedures for Excluding the Receipt of Hazardous Waste. (1) The owner or operator of a solid waste contained landfill shall implement a program at the facility for detecting and preventing the disposal of regulated hazardous wastes as defined in 401 KAR Chapter 31 and polychlorinated biphenyls (PCB) wastes as defined in 40 CFR Part 761. This program shall include, at a minimum:

(a) Random inspections of incoming loads;

(b) Inspection of suspicious loads;

(c) Records of any inspections;

(d) Training of facility personnel to recognize regulated hazardous waste; and

(e) Procedures for notifying the proper authorities if a regulated hazardous waste is discovered at the facility.

(2) The owner or operator shall implement the following additional inspection standards to meet the requirements of subsection (1) of this section:

(a) The owner or operator shall have a program, approved by the cabinet, to inspect all waste entering a contained landfill. The program to exclude hazardous wastes shall include the following:

1. Each landfill shall perform a detailed, manual inspection of one (1) truck load of waste per week. The entire load shall be inspected by hand and each individual discarded item inspected for unauthorized waste. If the truck is from a transfer station and contains more than twenty (20) tons or seventy (70) cubic yards, the employee shall inspect only forty (40) cubic yards from the load. Individual bales, plastic bags, and cardboard boxes shall be opened except for those containers marked asbestos or infectious wastes. The operator shall have equipment, trained personnel, and a location to safely inspect asbestos and

infectious waste packages for unauthorized material and shall weekly inspect such materials;

2. The inspection shall be random in time, but uniformly distributed to all waste sources based on volume; and

3. Identification data concerning the hauler shall be placed on the operating inspection record including name of the driver, name of the hauler, address, source, volume, and waste characteristics. The owner or operator shall maintain a record of the inspections in accordance with the approved recordkeeping requirements.

(b) Upon discovery of hazardous waste, the owner or operator of a contained landfill shall isolate the load and notify the cabinet immediately.

Section 3. Cover Material and Disease Vector Control Requirements. (1) Daily cover.

(a) The owner or operator shall place a minimum of six (6) inches of cover over all exposed solid waste at the end of each working day or, for continuously operating landfills, once every twenty-four (24) hours. The purpose of this cover shall be to control disease, fires, blowing litter and disease vectors. Daily cover shall not contain hard rock with a maximum thickness over three (3) inches and shall contain sufficient clay soils to properly seal the surface. The owner or operator shall only use soil or properly weathered or crushed shales, siltstones or other materials as approved by the cabinet;

(b) The daily cover shall not have any protruding waste, except for the occasional litter embedded into the surface, which shall not exceed ten (10) percent of the cover area;

(c) Daily cover shall be compacted upon application and provide positive drainage. The owner or operator shall place daily cover to allow for proper drainage and shall immediately compact and grade the soil;

(d) The owner or operator may remove up to twenty (20) percent of the daily cover to facilitate the vertical passage of methane gas and leachate and shall recover the exposed areas within eight (8) hours of exposure; and

(e) The owner or operator shall dispose of any daily cover removed under subsection (1)(d) of this section as solid waste.

(2) Interim cover period. The owner or operator shall:

(a) Place an additional six (6) inches of interim cover over any area that shall not receive additional solid waste within thirty (30) calendar days of the last waste placement. The sequence of waste placement in the permit shall predict such areas. With the daily cover applied in accordance with subsection (1) of the section, the additional interim cover shall increase the total cover depth to twelve (12) inches;

(b) On the day waste is to be placed over an area that is covered with daily and interim cover, an owner or operator may remove a maximum depth of six (6) inches of interim cover over the area of the cell for that day's operation;

(c) Place, compact and grade the interim cover to effect proper drainage; and

(d) Apply temporary erosion controls at the time of placing interim cover.

(3) Long term cover. The owner or operator:

(a) Shall apply an additional eighteen (18) inches of long-term cover over all areas that shall not receive additional waste within four (4) months by September 15 of each year. With the daily and interim cover, the total thickness of the cover in these areas shall be thirty (30) inches;

(b) May remove a maximum of eighteen (18) inches of the thirty (30) inches of cover in this subsection within the seven (7) calendar days prior to additional waste placement. The owner or operator may remove remaining soil leaving no less than six (6) inches of daily cover from the daily cell area on the day additional waste is to be placed;

(c) Shall place, compact and grade the long term cover to effect proper drainage; and

(d) Shall complete erosion controls and proper seeding of interim and long-term cover by October 15 each year.

(4) Final cover. The owner shall initiate the application of final cover:

(a) Within thirty (30) days of filling a completed phase of the landfill to final design grade; and

(b) Annually such that the final cap is in place by September 15 in all areas of the landfill that have reached final grade by August 15 of each year.

(5) Cover report. The owner or operator shall record, on a form approved by the cabinet, the daily cell locations, and dates of cover applications at the landfill including: daily usage area, daily, interim, long term and final cap installation dates and certification reports.

Section 4. Explosive Gases Control. (1) The owner or operator of a contained solid waste landfill shall ensure that:

(a) The concentration of methane gas generated by the facility does not exceed twenty-five (25) percent of the lower explosive limits (LEL) for methane in facility structures (excluding gas control or recovery system components); and

(b) The concentration of methane gas does not exceed the lower explosive limit for methane at the facility property boundary.

(2) The owner or operator of a contained landfill shall quarterly monitor for explosive gas at the following locations:

(a) Underneath or in the low area of each on-site building;

(b) At locations along the boundary as shown in the permit;

(c) At each gas passive vent installed under the final closure cap;

(d) At any potential gas problem areas, as revealed by dead vegetation or other indicators; and

(e) At any other points required by the permit.

(3) The owner or operator shall record the date, time, location, percent lower explosive limit and other pertinent information on the recordkeeping form approved by the cabinet.

(4) The owner or operator shall install, operate and maintain a gas detector with an alarm set at twenty-five (25) percent of the lower explosive limit in each on-site building.

(5) If methane gas levels exceeding the limits specified in subsection (1) of this section are detected, the owner or operator shall:

(a) Take all necessary steps to ensure immediate protection of human health;

(b) Immediately notify the cabinet of the methane gas levels detected and the immediate steps taken to protect human health; and

(c) Within fourteen (14) days, submit to the

cabinet for approval a remediation plan for the methane gas releases. The plan shall describe the nature and extent of the problem and the proposed remedy. The plan shall be implemented upon approval by the cabinet.

Section 5. Air Criteria. (1) The owner or operators of contained landfills shall not permit or engage in open burning of waste. Any open burning shall be immediately extinguished. Wastes that are burning or smoldering shall not be deposited in the fill. Such materials shall be deposited in a hot load area designated in the permit. The cabinet may grant emergency permission to burn in accordance with 401 KAR 47:150. The owner or operator shall follow the plan approved for such purposes.

(2) The owner or operator shall properly control dust on haul roads and other areas to prevent a nuisance to surrounding areas.

Section 6. Access Requirements. (1) The owner or operator of a contained solid waste landfill shall control public access and prevent unauthorized vehicular traffic and illegal dumping of wastes to protect human health and the environment. The owner or operator shall use artificial barriers, natural barriers, or both, as appropriate. Each access point shall be controlled by lockable entrance ways.

(2) The owner or operator shall construct and maintain:

(a) Lockable entrance ways at all access points;

(b) The major access road from a publicly maintained highway to the landfill;

(c) The perimeter road; and

(d) An all-weather road to within 200 feet of the working face.

(3) The owner or operator of a contained landfill shall remove debris, mud, and waste from vehicles before leaving the site. The owner or operator shall be responsible for removing landfill debris mud and waste from off-site roadways.

Section 7. Water Controls. The owner or operator of a contained solid waste landfill shall:

(1) Maintain the site as necessary to prevent erosion or washing of the fill, and grade as necessary to drain rain water from the fill area and to prevent standing water.

(2) Maintain all run-on and run-off control systems as necessary to maintain original design capacity as required by Section 2 of 401 KAR 48:070. This includes, but shall not be limited to:

(a) Removal of sediment from run-off control structures. The site design shall specify the method to be used to determine when cleanout shall occur;

(b) Removal of debris, wastes and soil from diversion and run-off ditches to maintain the capacity to carry a 100 year twenty-four (24) hour storm;

(c) Construction and maintenance of temporary diversion ditches around the current working face. The owner or operator shall specify the location of the temporary ditches in the operational plan required by 401 KAR 47:190 and the ditches shall be approved by a professional engineer registered in the Commonwealth of Kentucky.

Section 8. Waste Restrictions. (1) The owner or operator of a contained landfill shall only dispose of wastes that:

(a) Are not hazardous wastes regulated pursuant to 401 KAR Chapters 30 through 40, except for limited quantity hazardous wastes and exempt spill residues;

(b) Do not contain free liquids as determined by the cabinet; and

(c) Are specified in the approved permit application.

(2) The owner or operator shall comply with the recordkeeping and reporting requirement of Section 11 of this regulation pertaining to the location of disposed limited quantity hazardous waste and exempt spill residues.

Section 9. Working Face Requirements. (1) Within two (2) hours of receipt, the owner or operator shall spread wastes in loose layers not exceeding twenty-four (24) inches in depth and compact it to the maximum practicable density. The owner or operator shall use the equipment specified in the permit for compaction. The operator shall pass the equipment over 100 percent of the waste surface at least four (4) times. Each loose layer shall be fully compacted before any additional waste is placed.

(2) The owner or operator shall not exceed the lift height specified in the permit.

(3) The owner or operator shall not place an initial lift containing any object that may damage the bottom liner. The owner or operator shall protect the liner system with a layer of dirt, waste or similar blanket placed between operating equipment and the liner.

(4) The daily working face shall be restricted to the smallest area practical for working face operation.

(5) The completed cell shall consist of the solid waste compacted during one (1) working day.

(6) The owner or operator shall prohibit scavenging within 100 feet of the working face. All salvage and recycling shall occur at areas so designated in the permit.

(7) The owner or operator shall only allow access to the landfill when operating personnel are on the site.

(8) The owner or operator shall not accept solid waste at a rate that exceeds the rated capability of the operational compaction and cover equipment available on site.

(9) The owner or operator shall not accept solid waste without landfill personnel present to supervise the unloading.

(10) The grounds in and about a landfill shall not be allowed to become a nuisance. When necessary, interior fences may be required to prevent litter from blowing from the landfill. The permitted area shall be policed on a routine basis to collect all scattered material.

(11) All litter attributable to the site's operation shall be picked up within forty-eight (48) hours.

(12) Unless excluded from the site, large bulky items and other nonresidential wastes shall be deposited in a manner approved by the cabinet.

(13) The owner or operator shall conform to the posted operating hours for receiving waste and shall notify the cabinet of the operating hours before changing them. The entrance sign shall meet the requirements of Section 14(2) of this regulation.

Section 10. Employee Facilities. The owner or operator of a contained landfill shall provide buildings meeting Section 9 of 401 KAR 48:070, for site personnel. The buildings shall be maintained in a safe and sanitary manner. One (1) building shall have a safe drinking water supply.

Section 11. Reports and Recordkeeping. Records and reports shall be maintained and submitted in accordance with Section 8 of 401 KAR 47:190.

Section 12. Groundwater Monitoring. The owner or operator of a contained solid waste landfill shall implement the groundwater monitoring program in the approved application.

Section 13. Closure Care Requirements. (1) Following the two (2) year closure period for each contained landfill phase, the owner or operator shall conduct the following:

(a) The first phase shall be for a minimum of thirty (30) years and consist of at least the following:

1. Maintaining the integrity and effectiveness of any final cap, including making repairs to the cap as necessary to correct the effects of settling, subsidence, erosion, or other events, and preventing run-on and run-off from eroding or otherwise damaging the final cap;

2. Maintaining and operating the leachate collection system in accordance with the requirements, if applicable, until leachate no longer is generated;

3. Monitoring the groundwater in accordance with the requirements of 401 KAR 48:300 and maintaining the groundwater monitoring system; and

4. Maintaining and operating the explosive gas monitoring system in accordance with the requirements of Section 4 of this regulation.

(b) Following the period described in subsection (a) of this section, the owner or operator shall conduct a second phase of closure care at each contained solid waste landfill unit that consists of, at a minimum, groundwater and explosive gas monitoring. The length of this period shall be sufficient to protect human health and the environment. This phase shall be extended to include the period of time required for corrective action in accordance with 401 KAR 48:300.

(2) The owner or operator of a contained landfill shall prepare a written closure care plan that describes monitoring and routine maintenance activities that shall be carried out during each phase of the closure care period in accordance with the requirements of subsection (1) of this section. The closure care plan shall include, at a minimum, the following information:

(a) A description of the monitoring and maintenance activities required in subsection (1) of this section for each unit, and the frequency at which these activities shall be performed;

(b) Name, address and telephone number of the person or office to contact about the facility during both phases of the closure period; and

(c) A description of the planned uses of the property during both phases of the closure care period. Closure care use of the property shall not be allowed to disturb the integrity of the final cap, liner(s), or any other components of the containment system, or the function of the monitoring systems, unless upon demonstration by the owner or operator, the cabinet determines that the activities shall not increase the potential threat to human health or the environment or the disturbance is necessary to reduce a threat to human health or the environment. The owner or operator shall obtain approval from the cabinet in order to remove any wastes or waste residues, the liner, or contaminated soils from the land.

(3) The closure care plan shall be submitted with the permit application and shall be approved by the cabinet. Any subsequent modification to the closure care plan also shall be proved by the cabinet. A copy of the most recently approved closure care plan shall be kept at the facility until completion of the closure care period has been certified in accordance with subsection (5) of this section and the owner or operator has been released from financial assurance requirements for closure care under Section 1 of 401 KAR 48:310.

(4) Following closure of the entire contained landfill, the owner or operator shall record a notation on the deed to the landfill property, or some other instrument that is normally examined during title search. The notation on the deed shall in perpetuity notify any potential purchaser of the property that:

(a) The land has been used as a contained landfill; and

(b) Its use is restricted under subsection (2)(c) of this section.

(5) Following completion of all closure and closure care periods for each unit, the owner or operator of a contained landfill shall submit to the cabinet certification by a professional engineer, verifying that all phases of closure and closure care have been completed in accordance with the approved plans and the requirements of KRS Chapter 224.

Section 14. Signs. (1) Warning signs shall be visible at all landfill access points. The warning signs shall be readable at a distance of 100 feet. The signs shall give warnings of all site hazards, including but not limited to: explosive gases, heavy equipment movement and heavy truck movements.

(2) Entrance signs shall be visible, located at the public entrances and all entrances used by waste hauling vehicles. The signs shall be readable from 100 feet. They shall indicate landfill name, name of the owner, name of the operator, the hours of receiving wastes, the permit number and an emergency telephone number.

FRANK DICKERSON, Commissioner
CARL H. BRADLEY, Secretary
APPROVED BY AGENCY: January 9, 1990
FILED WITH LRC: January 15, 1990 at 9 a.m.
PUBLIC HEARING: A public hearing to receive comments on this proposed regulation will be conducted February 22, 1990 at 10 a.m. (EDT), in the first floor auditorium of the New State Office Building, High and Clinton Streets, Frankfort, Kentucky. Persons interested in attending this public hearing shall notify in writing at least five days prior to the hearing: David W. Morgan, Division of Waste Management, Frankfort Office Park, 18 Reilly Road, Frankfort, Kentucky 40601. Persons wishing to submit written comments without attending the hearing may do so, if the written comments are received in the Frankfort office of the

Department for Environmental Protection by 4:30 p.m.(EDT) on February 22, 1990.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Susan C. Bush, Director

(1) Type and number of entities affected: Between twenty-five (25) and thirty (30) contained landfills are projected to exist if these rules become effective.

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

1. First year: The rule will not affect any permitted residential landfills in the first year. The cost to implement the changed requirements of this regulation will be about $30,000 per year.

2. Continuing costs or savings: It will cost an added $30,000 or more per year to implement these requirements.

3. Additional factors increasing or decreasing costs (note any effects upon competition): Larger landfills are more efficient; thus, costs per ton are lower. As the number of landfills decreases, the size increases. The end result is a statewide reduction of landfill costs.

(b) Reporting and paperwork requirements: Reports of inspections and wastes are to be sent to the state on a regular basis.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The cost to the agency will include staff to manage the data and assure compliance with the requirements of this rule. The division has requested additional staff in the FY '91-'92 Budget.

2. Continuing costs or savings: The staff levels to manage this solid waste program will be continued.

3. Additional factors increasing or decreasing costs: The number of sites applying for modifications will affect the time necessary for reviews.

(b) Reporting and paperwork requirements: The review of permit modifications will be a paperwork requirement. Reports will be required of landfill owners once each quarter.

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) Procedures for excluding hazardous wastes.

Alternatives: 1. Less stringent: The present method of having employees observe waste as it is unloaded will not meet the federal mandate.

2. More stringent: A detailed hands-on inspection of every load is impractical.

3. Present proposal: The random selection of one (1) truckload a week for a detailed, upclose, visual, hands-on inspection for indications of hazardous waste meets the federal mandate.

(b) Explosive gas control.

Alternatives: 1. Less stringent: The present contingency plan requirement will not meet the proposed federal mandate.

2. More stringent: A more detailed rule would not be cost effective, and less flexibility would be allowed the site designer.

3. Present proposal: The present proposal meets the federal mandate with reasonable costs while protecting the environment and human health.

(c) Closure care requirements.

Alternatives: 1. Less stringent: Less stringent requirements do not allow for resolution of problems such as ponding, dead vegetation and erosion resulting from subsidence, and possible groundwater contamination.

2. More stringent: Requiring indefinite maintenance of the site would require all sites to be owned by the government and would not allow the most efficient operation.

3. Present proposal: The majority of site degradation occurs in the first (15) years after closure. By doubling this time frame,the site should be stable environmentally. The thirty (30) year period meets the proposed federal standard.

(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: There are no known conflicts.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There are no known conflicts.

(6) Any additional information or comments: There are no additional comments.

TIERING: Was tiering applied? Yes. The regulations of 401 KAR Chapters 47 and 48 use multiple tiering systems. Permit-by-rule in 401 KAR 47:150 and granted permit-by-rule in 401 KAR 47:110 give certain practices and management activities a method of avoiding full permits. Emergency permits and research, development and demonstration permits in 401 KAR 47:150 provide permitting mechanisms for certain situations. The three solid waste landfills (contained, residual and construction/demolition debris) and the three classes of landfarming provide for a tiering mechanism based on the type and quality of the waste received.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Subtitle D of the Resource Conservation and Recovery Act (RCRA) (as amended) is the federal law for solid waste. 40 CFR Part 257 established criteria for sanitary landfills. 40 CFR Part 258 (proposed) establishes specific requirements for municipal solid waste landfills (MSWLFs). Under a 1984 amendment to the Resource Conservation and Recovery Act, the U.S. EPA was required to revise their existing solid waste regulations for facilities receiving household hazardous wastes or hazardous wastes from persons who generate less than 220 pounds per month. The federal law specifies in Section 4010(c) that, at a minimum, the revisions shall include groundwater monitoring to detect contamination, establish criteria for the acceptable location of new or existing facilities, and provide for corrective action as appropriate. On August 30, 1988, the federal government proposed revisions to the existing solid waste regulations. If the administrator of the U.S. EPA determines that a state has not adopted an adequate permit the EPA may enforce the revised federal criteria at facilities that may receive household hazardous wastes and hazardous wastes from persons who generate less than 220 pounds per month.

2. State compliance standards. KRS Chapter 224

is the environmental protection statute. The federal law requires states to adopt a permitting procedure but the proposed federal regulations do not adopt a federal standard. This proposed regulation continues the current state procedures while drawing procedural language from the federal permitting waste regulations.

3. Minimum or uniform standards contained in the federal mandate. The proposed 40 CFR Part 258 establishes these new standards: Procedures to exclude hazardous waste; explosive gas monitoring and control; air criteria; long-term closure care and operation; and groundwater monitoring.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The proposed regulation adopts the requirements mentioned in item #3. The remaining items either repeat existing regulations or give more explicit controls found necessary to achieve the desired effect for protection of human health and the environment.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The federal criteria in 40 CFR Parts 257 and 258 are flexible guidelines for the states to follow in establishing their regulations. The flexibility was built into the Federal Code to allow each state the freedom needed to control their waste sites with allowances for state-specific conditions.

NATURAL RESOURCES & ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 48:170. Technical requirements for residual landfills.

RELATES TO: KRS 224.005 through 224.110, 224.830 through 224.889, 224.994

STATUTORY AUTHORITY: KRS Chapter 13A, 224.033, 224.842

NECESSITY AND FUNCTION: KRS Chapter 224 requires the cabinet to adopt rules and regulations for the management, processing or disposal of wastes. KRS 224.842 requires that persons engaging in the management, processing and disposal of waste obtain a permit. This chapter establishes the minimum technical standards for solid waste sites or facilities. This regulation sets forth the technical requirements for residual landfills.

Section 1. Design Requirements. The engineering design shall demonstrate compliance with the environmental performance standards in 401 KAR 47:030 and the siting standards of 401 KAR 48:050 considering the following:

(1) The physical and chemical characteristics of the waste, including compatibility of the waste with the liner and cover materials and water that may come in contact with the waste;

(2) Volume of waste;

(3) The climatic conditions in the area;

(4) The permeability of the liner material. The liner shall assure containment of the waste on site and compliance with the environmental performance standards of 401 KAR 47:030;

(5) The properties of the soil underlying the facility;

(6) Hydrogeologic characteristics of the facility including quality, quantity, current use and direction of groundwater flow;

(7) The design of the facility leachate control system, run-off control system, and gas migration control, if required, as it relates to the physical and chemical characteristics of the waste, the climatic conditions of the specific location, the volume of leachate and contaminated run-off collected at the facility;

(8) The proximity to surface water and groundwater;

(9) The potential for gas emissions and odors;

(10) Any additional requirements specified by the cabinet.

Section 2. Operating Requirements. (1) The owner or operator of a residual landfill shall operate the facility in accordance with the requirements of KRS Chapter 224 and the waste management regulations, the conditions of the solid waste permit issued by the cabinet, and the operational plan filed with and approved by the cabinet.

(2) The owner or operator of a residual landfill shall operate the facility in such a manner as to ensure compliance with the environmental performance standards in 401 KAR 47:030.

(3) The owner or operator of the facility shall inspect the site and operation at a sufficient frequency to ensure compliance with the applicable environmental performance standards in 401 KAR 47:030.

(4) The owner or operator shall have a sign located at the entrance. The sign shall indicate the landfill name, the names of the owner and the operator, the hours that the landfill is accepting wastes, the permit number, the contact person and the emergency telephone number.

(5) Records and reports shall be maintained and submitted in accordance with the requirements of 401 KAR 47:190, Section 8.

(6) The cabinet may place additional requirements on the owner or operator of a residual landfill in addition to those stated where necessary to ensure compliance with the applicable environmental performance standards in 401 KAR 47:030.

Section 3. Closure and Closure Care Requirements. (1) A residual landfill shall be closed in a manner that shall ensure compliance with the applicable environmental performance standards in 401 KAR 47:030. The closure shall include the placement of a final cover over the facility as specified in the approved design of the site.

(2) Any necessary corrective work required by the cabinet shall be performed before the residual landfill is accepted as closed and closure financial responsibility funds are released.

(3) The closure plan shall be prepared to specify the function and design of the final cover for the facility. The closure design shall ensure compliance with the environmental performance standards in 401 KAR 47:030 considering:

(a) The type and amount of waste in the facility;

(b) The mobility and expected rates of migration of the waste or leachate constituents;

(c) The site location, topography, surrounding land use, and final site use;
(d) The climatic conditions in the area;
(e) The characteristics of the cover material including its chemical and physical composition, erodibility, slope stability, final surface contours, thickness, porosity, permeability, slope, length of run of slope, and type of vegetation on the cover; and
(f) The geologic and soil profiles and surface and subsurface hydrology of the site.
(4) Closure care maintenance. A residual landfill shall be maintained for a minimum of two (2) years following the closure of the site in a manner that complies with the applicable environmental performance standards in 401 KAR 47:030 and in accordance with any approved closure care monitoring and maintenance plan approved by the cabinet.
(5) The owner or operator of a residual landfill shall record a notice that shall in perpetuity notify any potential purchaser of the property of the location and time of the operation of the facility, the nature of the waste placed in the site and a caution against future disturbance of the area. Such notice shall be recorded in accordance with state property law prior to acceptance of final closure of the landfill.
(6) The cabinet may release the site bonds in that amount which exceeds the funds necessary to maintain the final cover to correct vegetative growth, erosion, and closure care environmental monitoring for two (2) years. These funds shall be released upon inspection of the permit records and the site to determine that it is in compliance with all regulatory requirements and has at least a ninety (90) percent permanent vegetative cover.

Section 4. Display of Permit. One (1) copy of the permit application shall be returned to the permittee. The permit with all applicable conditions shall be conspicuously displayed at the solid waste site or facility for the duration of the permit. A copy of the approved application, including plans, shall be available at the site.

FRANK DICKERSON, Commissioner
CARL H. BRADLEY, Secretary
APPROVED BY AGENCY: January 9, 1990
FILED WITH LRC: January 15, 1990 at 9 a.m.
PUBLIC HEARING: A public hearing to receive comments on this proposed regulation will be conducted February 22, 1990 at 10 a.m. (EDT), in the first floor auditorium of the New State Office Building, High and Clinton Streets, Frankfort, Kentucky. Persons interested in attending this public hearing shall notify in writing at least five days prior to the hearing: David W. Morgan, Division of Waste Management, Frankfort Office Park, 18 Reilly Road, Frankfort, Kentucky 40601. Persons wishing to submit written comments without attending the hearing may do so, if the written comments are received in the Frankfort office of the Department for Environmental Protection by 4:30 p.m.(EDT) on February 22, 1990.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Susan C. Bush, Director
(1) Type and number of entities affected: There are presently 7 permitted residual sites in the state. After the regulations change, there will be an estimated 35 residual landfills.
(a) Direct and indirect costs or savings to those affected:
1. First year: No costs or savings will be incurred in the first year.
2. Continuing costs or savings: There is not expected to be significant increased cost due to this regulation. The rule provides a landfill classification for industrial sites currently permitted as inert landfills. This can save many dollars as compared to the construction/demolition debris landfill design standards. Inert sites may make application for change of status to a residual landfill. If groundwater monitoring is not in place a geotechnical investigation will be necessary to prove the site will meet the environmental performance standards. The cost per site will be approximately $15,000.
3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors that may change the costs.
(b) Reporting and paperwork requirements: The application form for a permit will be revised and the permittees will be required to report quarterly.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: The division will need one additional staff person to manage residual landfills.
2. Continuing costs or savings: There will need to be one additional staff person on a continuing basis.
3. Additional factors increasing or decreasing costs: The number of landfills applying for residual status will affect the cost.
(b) Reporting and paperwork requirements: Applicants must use agency prepared forms to file an application.
(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.
(4) Assessment of alternative methods; reasons why alternatives were rejected: The need for a standard for wastes that may be disposed below the groundwater table.
Alternative: 1. Less stringent: The present regulation does not require any standard for solid waste characterization where wastes will be disposed below the water table.
2. More stringent: The division could require all solid waste to be disposed above the water table.
3. Present proposal: The proposed regulation requires an extraction procedure toxicity test performed on each type of waste to be deposited at the landfill. This procedure simulates a worst case release of heavy metals and is a conservative approach.
(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: There are no known conflict.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There are no known conflicts.
(6) Any additional information or comments: There is no additional information.

TIERING: Was tiering applied? Yes. The regulations of 401 KAR Chapters 47 and 48 use multiple tiering systems. Permit-by-rule in 401 KAR 47:150, and granted permit-by-rule in 401 KAR 47:110 give certain practices and management activities a method of avoiding full permits. Emergency permits and research, development and demonstration permits in 401 KAR 47:150 provide permitting mechanisms for certain situations. The 3 types of solid waste landfills (contained, residual and construction/demolition debris) and the 3 classes of landfarming provide for a tiering mechanism based on the type and quality of the waste received.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Subtitle D of the Resource Conservation and Recovery Act is the federal waste statute. 40 CFR Part 257 establishes standards for classification of open dumps, and Kentucky has adopted a form of these referenced as the "environmental performance standards." Under a 1984 amendment to the Resource Conservation and Recovery Act, the U.S. EPA was required to revise their existing solid waste regulations for facilities receiving household hazardous wastes or hazardous wastes from persons who generate less than 220 pounds per month. The federal law specifies in Section 4010(c) that, at a minimum, the revisions shall include groundwater monitoring to detect contamination, establish criteria for the acceptable location of new or existing facilities, and provide for corrective action as appropriate. On August 30, 1988, the federal government proposed revisions to the existing solid waste regulations. If the administrator of the U.S. EPA determines that a state has not adopted an adequate permit the EPA may enforce the revised federal criteria at facilities that may receive household hazardous wastes and hazardous wastes from persons who generate less than 220 pounds per month.

2. State compliance standards. KRS Chapter 224 is the environmental protection authority for the Commonwealth of Kentucky. The federal law requires states to adopt a permitting procedure but the proposed federal regulations do not adopt a federal standard. This proposed regulation continues the current state procedures while drawing procedural language from the federal permitting regulations. This regulation requires a certain class of solid waste site or facilities to obtain a permit and follow a rule almost identical to 40 CFR Part 257.

3. Minimum or uniform standards contained in the federal mandate. U.S. EPA has promulgated 40 CFR Part 256 relating to state solid waste disposal programs. The federal government requires that each state have a program aimed at eliminating open dumps as determined using 40 CFR Part 257.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The federal government requires that the state eliminate open dumps. Our permitting process mandates standards for permitted solid waste facilities.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The federal government has no permitting authority for solid waste sites. The only criterion is that states eliminate open dumps. Therefore, the state must be responsible for its own standards.

NATURAL RESOURCES & ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 48:200. Landfarming and composting.

RELATES TO: KRS 224.005, 224.830 through 224.860, 224.868, 224.869, 224.994
STATUTORY AUTHORITY: KRS 13A.210, 224.033
NECESSITY AND FUNCTION: KRS 224.033 and the waste management provisions of KRS Chapter 224 require the Natural Resources and Environmental Protection Cabinet to adopt regulations for the disposal of solid waste. This chapter establishes standards for solid waste sites or facilities. This regulation sets forth the permit application requirements and general design and operating requirements for landfarming facilities.

Section 1. Applicability. (1) The requirements in this regulation apply to any person disposing of solid waste by landfarming and composting.

(2) The cabinet shall not permit the land application of solid waste that may present a threat to human health and the environment. The land application suitability of solid wastes shall be evaluated by the cabinet on a case-by-case basis. The applicant shall submit a request for a determination of waste classification with the submittal of a notice of intent to apply. The cabinet may base a decision as to the land application suitability of a particular waste upon the ability of the waste to biodegrade in the environment, the potential for the waste to be managed in a manner consistent with 401 KAR 47:030, the likelihood that waste constituents shall contaminate surface water or groundwater, the potential for nuisances from odors or unsightly conditions, and the potential for the waste to harm human health or the environment.

(a) Municipal water treatment sludges, municipal wastewater treatment sludges, or food service industry wastes shall be classified according to the maximum dry weight concentration of heavy metals based on the average concentration of metals in a minimum of two (2) consecutive samples taken no closer than thirty (30) days apart. The cabinet may deny the landfarming of waste based upon health considerations in addition to the five (5) heavy metals listed below. The sludges shall be placed in classes based on the concentration of the following heavy metals:

1. Cadmium;
2. Copper;
3. Lead;
4. Nickel; and
5. Zinc.

(b) Sludges or solid wastes other than municipal water treatment sludges, municipal wastewater treatment sludges, or food services industry sludges shall be classified using additional parameters based upon the source, chemical and physical characteristics of the waste and their potential for adverse impact on

human health or the environment.

(3) The concentration for heavy metals in each class of sludge or waste shall be those indicated in Table 1 of this subsection. A single metal parameter shall be sufficient to require a waste to be classified as Class II or III.

Table 1. Heavy Metal Concentrations

Parameters for Class I Concentration

Cadmium	Less than or equal to 10 mg/kg
Copper	Less than or equal to 450 mg/kg
Lead	Less than or equal to 250 mg/kg
Nickel	Less than or equal to 50 mg/kg
Zinc	Less than or equal to 900 mg/kg

Parameters for Class II Concentration

Cadmium	Greater than 10 mg/kg and less than or equal to 30 mg/kg
Copper	Greater than 450 mg/kg and less than or equal to 900 mg/kg
Lead	Greater than 250 mg/kg and less than or equal to 500 mg/kg
Nickel	Greater than 50 mg/kg and less than or equal to 100 mg/kg
Zinc	Greater than 900 mg/kg and less than or equal to 1800 mg/kg

Parameters for Class III Concentration

Cadmium	Greater than 30 mg/kg
Copper	Greater than 900 mg/kg
Lead	Greater than 500 mg/kg
Nickel	Greater than 100 mg/kg
Zinc	Greater than 1800 mg/kg

(4) Sludge or solid waste classifications shall be reevaluated based upon the annual analyses submitted in the annual landfarming review.

(5) A granted permit-by-rule may be issued based upon the information submitted in the notice of intent to apply phase of the application for landfarming of solid waste classified as Class I wastes, composted sludge, or sludge giveaway programs.

(6) A landfarming permit may be issued based upon the information submitted in the application for solid wastes classified as Class II or III.

Section 2. Notice of Intent to Apply. All applicants for a landfarming permit or a granted permit-by-rule shall submit a notice of intent to apply for a landfarming permit that shall contain the following information:

(1) Names, addresses, and telephone numbers of the landowner, applicant and waste producer. If the applicant is a government agency, corporation, company or partnership, include the name, address and telephone number of the process agent or contact individual;

(2) Sludge analyses in accordance with Section 1(2)(a) of this regulation to receive a classification rating;

(3) An original, current 7.5 minute United States Geological Survey quadrangle topographic map with the proposed landfarming site boundary clearly marked;

(4) A soil conservation service soils map with the proposed landfarming site boundary clearly marked;

(5) A survey of all groundwater wells and springs within a one-fourth (1/4) mile radius of the proposed landfarming site boundary;

(6) A description of the water or wastewater treatment processes including design capacity, current hydraulic operating conditions, and the sludge treatment systems. A schematic diagram showing the treatment plant processes shall be included. All chemicals used in the treatment process shall be listed by type and amount used;

(7) For publicly owned treatment works with pretreatment programs, a list of facilities which discharge waters to the treatment system and the quantities and characteristics of the wastes that are discharged to the facility;

(8) Any other additional information required by the cabinet; and

(9) Granted permit-by-rule applicants shall also submit the information specified in Sections 14 and 15 of this regulation.

Section 3. Contents of Permit Applications. Any person desiring a landfarming facility permit shall submit a complete application to the cabinet. Granted permit-by-rule facilities shall be treated as having been granted a permit if the owner complied with the requirements of Section 2 of this regulation and has received written approval from the cabinet. The cabinet may require submission of a complete application at any time. The applications shall be on a form and presented in a manner prescribed by the cabinet, and shall include, but not be limited to the following:

(1) Names, addresses and telephone numbers of the landowner, applicant, waste producer and person who completed the application form. If the applicant is a government agency, corporation, company or partnership, include the name, address and telephone number of process agent or other contact individual;

(2) A written description of the location of the proposed landfarming site and the address of the property on which the proposed landfarming site is located;

(3) A copy of the deed to the property and a copy of the proposed landfarming lease agreement if the landowner is not the applicant;

(4) A geological report of the site, including:

(a) A physical description of soils in the uppermost five (5) feet identifying the soil texture, erodibility, available moisture capacity, and permeability;

(b) A current soil analysis to determine the soil pH and cation exchange capacity (CEC) value;

(c) A delineation of soil by series on a U.S. Soil Conservation Service soils map, or on a map prepared by the soil conservation officer or a soil scientist; and

(d) A description of the surface and subsurface geology including depth to bedrock, depth to seasonal high groundwater table, karst formations, and names and descriptions of geologic formations.

(5) A description of the wastes to be disposed, including the inventory of industrial users and pollutants required in Section 8(7) of 401 KAR 5:055, including:

(a) The type, waste producer and total estimated quantity of waste per year to be disposed;

(b) A brief description of stabilization methods utilized to reduce pathogens in accordance with Section 11 of this regulation; and

(c) A physical and chemical analysis including: percent total solids; volatile solids; total potassium; total phosphorus; total nitrogen; ammonium nitrogen (NH_4-N); nitrate nitrogen (NO_3-N); pH; and the amount of cadmium, copper, nickel, zinc, lead, chromium, and polychlorinated biphenyls (PCBs).

(6) An original current United States Geological Survey topographic map within the land application unit clearly marked;

(7) An enlargement of a current United States Geological Survey topographic map. The enlarged map shall have a minimum scale of one (1) inch equals 400 feet and the contour interval as published. This map shall contain the following:

(a) The property lines and the boundaries of the proposed site;

(b) Proposed land application unit and subplots, numbered sequentially, with the land application unit;

(c) Access and proposed or existing roads;

(d) Blue-line and intermittent streams, areas of standing water such as lakes, ponds or marshes, and sinkholes on the site and within 1000 feet of the proposed site boundary;

(e) All existing manmade features within 1000 feet of the proposed site boundary including structures, public roads, utilities and water wells;

(f) The boundaries of the 100 year flood plain if applicable;

(g) The delineation of existing site surface water drainage, and existing and proposed run-off/run-on structures;

(h) Steepest slope of each subplot (numerical value) on the proposed landfarming site;

(i) Boundaries of any and all buffer zones with the distance marked; and

(j) Map legend showing all symbols used, total site acreage, and quadrangle name.

(8) The complete application narrative shall include:

(a) A description of the application method(s), equipment, and transportation method from the point of waste production to the proposed site;

(b) Waste storage provisions to be utilized during adverse weather conditions or equipment breakdowns;

(c) Annual application rates per acre based on waste quality as specified in Section 9 of this regulation;

(d) The cropping program for each subplot and the schedule of waste application for each subplot for a period of two (2) years from the date of permit issuance;

(e) A farm management plan for the area to be landfarmed;

(f) A description of the proposed site including any previous waste applications;

(g) Written recommendations of the county agricultural extension agent for crop nitrogen requirements, and any additional fertilizer and soil amendment needed;

(h) A description of how land application units and subplot boundaries shall be marked to ensure that the units and subplots can be identified during the life of the permit;

(i) A description of where the landfarming records shall be maintained and the person who is responsible for their upkeep;

(j) The name, address, phone number, and certification number of the state certified landfarming operator of the proposed landfarming site;

(k) Additional information necessary for the cabinet to make a determination that the proposed activity shall not adversely affect human health or the environment; and

(l) For counties that have a solid waste management board established pursuant to KRS Chapter 109, a letter indicating that the application is consistent with the approved solid waste management area plan or that the solid waste management area plan shall be revised to be consistent with the permitted sludge disposal activity.

Section 4. Additional Requirements for Class I Sludge Permit Applications. In addition to the notice of intent to apply in Section 2 of this regulation, applicants for landfarming granted permits-by-rule for Class I sludges shall submit in the application the following:

(1) A list of all surface water bodies within a one-fourth (1/4) mile radius of the proposed land application unit boundary;

(2) The usage of each surface water body listed in accordance with subsection (1) of this section;

(3) A list of all groundwater wells, springs and sinkholes within a one-fourth (1/4) mile radius of the proposed land application unit boundary; and

(4) The name of the owner of the property on which the surface water body, well, spring or sinkhole is located.

Section 5. Additional Requirements for Class II Sludge Permit Applications. In addition to the requirements for an application in Section 3 of this regulation, applicants for landfarming permits for Class II sludge shall submit in the application the following:

(1) A list of all surface water bodies within a one-half (1/2) mile radius of the proposed land application unit boundary;

(2) The usage of each surface water body listed in accordance with subsection (1) of this section;

(3) A list of all groundwater wells, springs and sinkholes within a one-half (1/2) mile radius of the proposed land application unit boundary;

(4) The name of the owner of the property on which the surface water body, well, spring, or sinkhole is located; and

(5)(a) The applicant shall prepare a groundwater quality assurance plan. The plan shall include but not be limited to:

1. A description of the surface and subsurface geology of the site; and

2. A description of the hydrologic characteristics of the site.

(b) Upon examination of geological aspects and other relevant factors by the cabinet, the applicant may be required to prepare a groundwater monitoring plan to include location and specifications of wells, monitoring parameters and monitoring schedules in accordance with 401 KAR 48:300.

Section 6. Additional Requirements for Class III Sludge Permit Applications. In addition to the requirements for an application in Section 3 of this regulation, applicants for landfarming permits for Class III sludge shall submit in the application the following:

(1) A list of all surface water bodies within a one-half (1/2) mile radius of the proposed

land application unit boundary;
(2) The usage of each surface water body listed in accordance with subsection (1) of this section;
(3) A list of all groundwater wells, springs and sinkholes within a one-half (1/2) mile radius of the proposed land application unit boundary;
(4) The name of the owner of the property on which the surface water body, well, spring, or sinkhole is located; and
(5)(a) The applicant shall prepare a groundwater quality assurance plan. The plan shall include but not be limited to:
1. A description of the hydrologic characteristics of the site; and
2. A description of the surface and subsurface geology of the site.
(b) The applicant shall submit a groundwater monitoring plan to include location and specifications of wells, monitoring parameters, and monitoring schedules in accordance with 401 KAR 48:300.

Section 7. Siting Considerations. (1) Solid waste shall not be applied in the 100 year flood plain unless the waste is injected or incorporated.
(2) The land application unit shall have a minimum of four (4) feet of soil between the soil surface and both the seasonal high water table and bedrock.
(3) Waste application shall not be located on soils with a permeability rate greater than six (6) inches per hour or less than two-tenths (0.2) inches per hour.
(4) Land application units shall not be located on land with a slope greater than fifteen (15) percent.

Section 8. Operating Requirements. (1) The owner or operator shall cause, suffer, or allow all of the requirements, specifications and standards of this section to be met.
(a) Prior to applying sludges to the land, all sludges shall be processed to significantly reduce pathogens. Approved processes to reduce pathogens are aerobic digestion, air drying, anaerobic digestion, composting or lime stabilization as specified in Section 11 of this regulation.
(b) Other methods or operating conditions may be acceptable as processes to significantly reduce pathogens. Such processes shall be deemed equivalent based upon the reduction of pathogens and volatile solids.
(2) A certified landfarming operator shall be available to the landfarming site during sludge application. All sludge applications are to be accomplished under the direction of a certified landfarming operator.
(3) When surface application is used in conjunction with soil incorporation methods, incorporation shall occur within forty-eight (48) hours of sludge application.
(4) Surface application without incorporation into the soil shall not be used on land without established vegetative cover or crop residue of at least seventy-five (75) percent.
(5) No hazardous wastes or mixtures of hazardous and solid waste shall be disposed, discharged to or placed in a landfarming site.
(6) No toxic wastes or mixtures of toxic and nontoxic wastes regulated under the Toxic Substances Control Act shall be disposed, discharged to or placed in a landfarming site.
(7) The following agricultural use restrictions apply:
(a) Land spreading shall not occur on land where leafy vegetables or root crops for human consumption shall be harvested within twelve (12) months;
(b) Land spreading shall not occur on land where crops for direct human consumption, other than leafy vegetables or root crops, are harvested within two (2) months;
(c) Dairy grazing shall be prohibited for six (6) months after land spreading, other livestock grazing shall be prohibited for three (3) months;
(d) When the annual application rate of cadmium exceeds 0.44 pound per acre, food chain crops shall not be utilized in the following cropping season; and
(e) Waste shall not be land spread where tobacco is harvested within five (5) years of waste application if the annual application rate of cadmium from the sludge exceeds 0.44 pound per acre at any time during the life of the site.
(8) The general public shall be restricted from the application zone for a period of twelve (12) months after each application.
(9) Waste shall not be land spread on frozen, snow-covered, ice-covered, or water-saturated soil, or during any precipitation event.
(10) No waste shall be applied in excess of schedules and rates of waste application approved by the cabinet.
(11) No raw or unstabilized waste shall be landfarmed. No person shall cause, allow or permit the discharge of air pollutants which cause or contribute to an objectionable odor.
(12) The amount of any single surface application shall not be greater than an average one-half (1/2) inch in thickness.
(13) High pressure spray irrigation of sludge which produces aerosols shall be prohibited.
(14) Subplots determined in Section 3(8)(h) of this regulation shall be staked or otherwise clearly marked in the field.
(15) Buffer zone distances shall be maintained in accordance with Table 2 of this subsection.

Table 2
Required Buffer Zones

Minimum Distance in Feet from the Boundary of the Application Zone

Structure or Object	Surface Injection	All Other Means of Application
Residences & occupied buildings	250	500
Drinking water well	250	500
Surface water body	250	500
Blue-line stream	250	500
Karst feature	250	500
Public road	30	50
Intermittent stream	30	50
Property line	30	50

(16) Surface water or waste ponding within the application zone shall be prohibited.
(17) Surface run-off/run-on shall be controlled to minimize the possibility of applied waste contaminating nearby surface water or adjacent land areas.
(18) The permit or granted permit-by-rule holder shall maintain records of all landfarming

activities on forms provided by the cabinet throughout the operation of the site. The records shall at a minimum contain the schedules and rates of waste application and all laboratory analyses. Records shall be made available to the cabinet upon request.

(19) An annual report of landfarming activities shall be submitted to the cabinet sixty (60) days prior to the anniversary date of the permit or granted permit-by-rule issuance. The report shall be submitted on forms provided by the cabinet.

(20) Operational monitoring shall be performed on the following schedule:

(a) Soil shall be sampled annually in accordance with the soil monitoring plan in the approved permit or granted permit-by-rule application; and

(b) Solid waste from municipal wastewater treatment, municipal water treatment facilities and food service industry wastes shall be sampled in accordance with Table 3 of this paragraph or more frequently if required by the cabinet. Other waste shall be sampled in accordance with a schedule approved by the cabinet. Waste shall be analyzed for solids content, pH, ammonium nitrogen (NH_4-N), nitrate nitrogen (NO_3-N), total nitrogen, total phosphorus, total potassium, PCBs, chromium, copper, zinc, nickel, lead, and cadmium. Laboratory analysis results shall be reported in milligrams per kilogram dry weight.

Table 3
Required Sampling Schedule

Design Treatment Capacity (gallons per day)	Samples Per Year
Less than 100,000	1
100,001 - 1,000,000	2
1,000,001 - 10,000,000	4
More than 10,000,000	12

(21) Soil pH shall be six and five-tenths (6.5) or greater during crop production, hay production or grazing.

(22) Solid waste containing concentrations of polychlorinated biphenyls greater than one (1) milligram per kilogram shall not be landfarmed.

(23) The maximum amount of metals from solid wastes that may be applied during the life of the site shall be based upon the cation exchange capacity of the soil and shall be those in Table 4 of this subsection.

Table 4
Maximum Amount of Metals

Parameter	Cation Exchange Capacity (meg/100g) 0.5	5-15	15+
Lead	500 lbs/ac.	1000 lbs/ac.	2000 lbs/ac.
Cadmium	4.46 lbs/ac.	8.02 lbs/ac.	17.84 lbs/ac.
Copper	125 lbs/ac.	250 lbs/ac.	500 lbs/ac.
Nickel	50 lbs/ac.	100 lbs/ac.	200 lbs/ac.
Zinc	250 lbs/ac.	500 lbs/ac.	1000 lbs/ac.

The following equation shall be used to determine the maximum number of tons of waste per acre that may be land spread without exceeding the above limitations:

Tons waste/acre =

$$\frac{\text{(lbs per acre for each parameter from Table 4)}}{\text{(dry mg/kg of metal in waste sample)} \times 0.002}$$

(24) The amount of nitrogen land spread shall not exceed the nitrogen utilization rate of the vegetative cover in the application zone.

(25) If the laboratory analyses and calculations to determine quantities of metals applied to the soil discloses that the cumulative concentration of a contaminant is above the maximum level permitted under subsection (23) of this section, a written notice shall be given to the cabinet within ten (10) days of receipt of the monitoring results. The permittee shall cease further landfarming and submit to the cabinet within forty-five (45) days a report describing proposed corrective actions to be taken by the permittee. A notice shall be recorded on the property deed stating that the property has received solid waste at concentrations exceeding permitted levels, and that food chain crops shall not be grown due to possible health hazards.

(26) In addition to the operating requirements in this section, an owner or operator who is landfarming Class I sludges shall limit the annual application rate to a maximum of fifteen (15) dry tons of sludge per acre per year.

(27)(a) In addition to the operating requirements in this section, the owner or operator who is landfarming Class II sludge shall sample surface water quarterly. Parameters to be monitored shall include pH, ammonium nitrogen (NH_4-N), fecal coliform bacteria, chromium, biological oxygen demand, total organic carbon, and total dissolved solids. A minimum of one (1) upgradient and one (1) downgradient sampling point is required.

(b) Groundwater monitoring, if required, shall be conducted in accordance with 401 KAR 48:300.

(28)(a) In addition to the operating requirements in this section, the owner or operator who is landfarming Class III sludge shall sample surface water quarterly. Parameters to be monitored shall include pH, ammonium nitrogen (NH_4-N), fecal coliform bacteria, chromium, biological oxygen demand, total organic carbon, and total dissolved solids. A minimum of one (1) upgradient and one (1) downgradient sampling point is required.

(b) Groundwater monitoring shall be conducted in accordance with 401 KAR 48:300.

Section 9. Application Rates. (1) The annual application rate shall be the lesser of the application rates as determined for cadmium and for nitrogen utilization.

(2) Determine the percent of available organic nitrogen in the waste using the following calculation:

Percent available organic N = (percent total N) - (percent NH_4-N) - (percent NO_3-N).

(3) Determine the amount of nitrogen that shall be available for plant uptake at the landfarming site using one (1) of the following calculations depending on the application method:

(a) Incorporation: Lbs available N/ton = (percent NH_4-N x 20) + (percent NO_3-N x 20) + (percent available organic N x 4).

(b) Surface application: Lbs available N/ton = (percent NH_4-N x 10) + (percent NO_3-N x 20) + (percent available organic N x 4).

Tons/acre =

$$\frac{\text{Nitrogen utilization rate of vegetative cover}}{\text{Lbs available organic N/ton}}$$

(4) The annual application rate of cadmium from solid waste shall not exceed 0.44 pounds per acre. The annual application rate shall be determined using the following calculation:

$$\text{Tons/acre} = \frac{\text{pounds of allowable cadmium per acre}}{(\text{mg per kg of cadmium in sample}) \times 0.002}$$

Section 10. Closure. An owner or operator who wishes to officially close a permitted or granted permit-by-rule landfarming site shall submit to the cabinet a report to include:

(1) The results of final soil samples taken in accordance with the operational permit or granted permit-by-rule between twelve (12) and thirteen (13) months following the last application of sludge;

(2) The results of final surface water samples taken in accordance with the operational permit between twelve (12) and thirteen (13) months following the last application of sludge for all Class II and Class III permit holders;

(3) A historical summary of all landfarming by subplot showing the allowable and actual rates of sludge application, heavy metals and nitrogen;

(4) When heavy metal applications exceed the amounts listed in Table 4 in Section 8(23) of this regulation, the owner shall submit a copy of the notice in the deed that shall advise all future landowners in perpetuity that heavy metal concentrations exceed those allowed by this regulation; and

(5) The results of final groundwater samples in accordance with the operational permit taken between twelve (12) and thirteen (13) months following the last application of sludge by all Class III and those Class II permits required to monitor groundwater.

Section 11. Processes to Significantly Reduce Pathogens. (1) Aerobic digestion. The process shall be conducted by agitating sludge with air or oxygen to maintain aerobic conditions at residence times ranging from sixty (60) days at fifteen (15) degrees celsius to forty (40) days at twenty (20) degrees celsius, with a volatile solids reduction of at least thirty-eight (38) percent.

(2) Air drying. Liquid sludge shall be allowed to drain or dry on under-drained sand beds, or paved or unpaved basins in which the sludge shall be at a depth of nine (9) inches. Air drying shall be conducted for a minimum of three (3) months, with two (2) months of temperatures which average on a daily basis above zero degrees celsius.

(3) Anaerobic digestion. The process shall be conducted in the absence of air at residence times ranging from sixty (60) days at twenty (20) degrees celsius to fifteen (15) days at thirty-five (35) degrees celsius to fifty-five (55) degrees celsius, with a volatile solids reduction of at least thirty-eight (38) percent.

(4) Composting. Using the within-vessel, static aerated pile or windrow composting methods, the solid waste shall be maintained at minimum operating conditions of forty (40) degrees celsius for five (5) days. For four (4) hours during this period, the temperature shall exceed fifty-five (55) degrees celsius.

(5) Lime stabilization. Sufficient lime shall be added to produce a pH of twelve (12) for two (2) hours of contact time.

(6) Other methods. Other methods or operating conditions may be acceptable if pathogens and vector attraction of the waste (volatile solids) are reduced to an extent equivalent to the reduction achieved by any of the above methods.

Section 12. Permit Modification. (1) Landfarming permits and granted permits-by-rule shall be issued to the operator and may include application zones which are not located contiguously.

(2) Class II and Class III sludge landfarming permit holders may add sites through permit modification procedures with the following conditions:

(a) The permit holder shall submit the appropriate information in accordance with Section 3 of this regulation; and

(b) A public notice shall be published and no permit modification granted until a minimum of thirty (30) days has passed from the date publication of the notice and the condition of Section 2 of 401 KAR 47:140 and 401 KAR 47:130 have been met.

(3) Class I landfarming granted permits-by-rule may be modified by submitting the appropriate information in accordance with Section 2 of this regulation.

Section 13. Distribution of Sludge. (1) A municipal water or wastewater treatment sludge producer may give away Class I or Class II sludge to individuals for subsequent use as a soil conditioner with written approval from the cabinet. This program shall be operated under a granted permit-by-rule in accordance with 401 KAR 47:110. The maximum amount of waste that may be obtained annually by any individual is limited to 2000 pounds (dry weight).

(2) Producers of Class I or Class II municipal water or wastewater sludge shall submit the following application requirements for approval of the sludge giveaway program:

(a) A sludge analysis as required in Section 1 of this regulation that demonstrates the sludge is Class I or II;

(b) A description of the distribution system;

(c) A recordkeeping system to include the name and address of individuals receiving sludge and the total quantity of sludge received; and

(d) A description of the process to significantly reduce pathogens.

(3) During operation of the giveaway program the producer shall:

(a) Maintain a list of names and addresses of all individuals receiving the sludge;

(b) Submit annually to the cabinet the sludge analysis performed in accordance with the schedule contained in Table 3 in Section 8(20) of this regulation;

(c) Provide to individuals receiving waste, copies of the waste analyses and a brochure, to be published by the cabinet, explaining the proper procedures to be utilized in the landfarming of sludge; and

(d) Use a process to significantly reduce

pathogens in accordance with Section 11 of this regulation.

Section 14. Sludge Composting. Sludge shall be composted under a granted permit-by-rule in accordance with 401 KAR 47:110.

(1) Producers of Class I or Class II municipal wastewater sludge shall submit the following notice of intent to apply requirements for a granted composting permit-by-rule:

(a) A sludge analysis as required in Section 1 of this regulation that demonstrates the sludge is a Class I or II;

(b) A detailed engineering description of the system and the manufacturer's performance data for mechanical composting systems;

(c) A site layout, including enlarged topographic map with a scale of one (1) inch equals 400 feet along with calculations for area requirements;

(d) A sludge analysis for the following parameters (by dry weight): percent total solids; volatile solids; total potassium; total phosphorus; total nitrogen; ammonium nitrogen (NH_4-N); nitrate nitrogen (NO_3-N); pH; and total cadmium, copper, nickel, zinc, lead, chromium, and polychlorinated biphenyls (PCBs);

(e) A process design that shall describe:

1. Use of bulking agents, moisture control, or feed amendments;

2. Temperature ranges and residence times;

3. Storage of compost during curing after the primary composting operation;

4. Provision for additional drying and screening;

(f) Odor and vector control;

(g) A marketing and distribution plan addressing compliance with subsection (2) of this section;

(h) Specifications for the final product;

(i) A closure plan for the composting site; and

(j) A narrative detailing the methods that the owner or operator shall use to ensure compliance with the environmental performance standards in 401 KAR 47:030.

(2) Any person who composts wastewater treatment or water treatment sludge shall:

(a) Use only Class I or Class II sludges for composting;

(b) Use a composting process to further reduce pathogens in accordance with subsection (3) of this section;

(c) Label materials to be marketed in accordance with the Kentucky Fertilizer Law KRS Chapter 250;

(d) Label the product with the source of the material and the application rate information;

(e) Keep a log of all recipients who receive more than twenty (20) cubic yards in any given month;

(f) Monitor on a daily basis the pathogen reduction by tracking residence time and temperature for the chosen composting process and maintain a permanent log of these data;

(g) Maintain a permanent log of the amount of waste and the date on which it is initially composted and the amount and date on which the curing process begins;

(h) After the composted waste has completed the curing process, distribute or dispose within one (1) year at least seventy-five (75) percent of the compost; and

(i) Dispose of any materials that do not meet standards for distribution within one (1) month of such a determination in an approved facility.

(3) The following processes further reduce pathogens:

(a) Composting. Using the within-vessel composting method, the solid waste shall be maintained at operating conditions of fifty-five (55) degrees celsius or greater for three (3) days. Using the static aerated pile composting method, the solid waste shall be maintained at operating conditions of fifty-five (55) degrees celsius or greater for three (3) days. Using the windrow composting method, the solid waste shall attain a temperature of fifty-five (55) degrees celsius or greater for at least fifteen (15) days during the composting period. Also, during the high temperature period, there shall be a minimum of five (5) turnings of the windrow.

(b) Heat drying. Dewatered sludge cake shall be dried by direct or indirect contact with hot gases, and moisture content shall be reduced to ten (10) percent or lower. Sludge particles shall reach temperatures well in excess of eighty (80) degrees celsius, or the wet bulb temperature of the gas stream in contact with the sludge at the point where it leaves the dryer shall be in excess of eighty (80) degrees celsius.

(c) Heat treatment. Liquid sludge shall be heated to temperatures of 180 degrees celsius for thirty (30) minutes.

(d) Thermophilic aerobic digestion. Liquid sludge shall be agitated with air or oxygen to maintain aerobic conditions at residence times of ten (10) days at a fifty-five (55) degrees celsius to sixty (60) degrees celsius, with a volatile solids reduction of at least thirty-eight (38) percent.

(e) Other methods. Other methods or operating conditions may be acceptable if pathogens or vector attraction of the waste (volatile solids) are reduced to an extent equivalent to the reduction achieved by any of the methods in paragraphs (a) through (d) of this subsection. Any of the processes listed in paragraphs (a) through (d) of this subsection, if added to the processes described in Section 11 of this regulation further reduce pathogens. Because the processes listed in paragraphs (a) through (d) of this subsection, on their own, do not reduce the attraction of disease vectors, they shall not be used unless used in conjunction with the processes in Section 11 of this regulation.

1. Beta ray irradiation. Sludge shall be irradiated with beta rays from an accelerator at dosages of at last one (1) megarad at room temperature which is about twenty (20) degrees celsius.

2. Gamma ray irradiation. Sludge shall be irradiated with gamma rays from certain isotopes such as $Cobalt^{60}$ and $Cesium^{137}$, at dosages of at least one (1) megarad at room temperature which is about twenty (20) degrees celsius.

3. Pasteurization. Sludge shall be maintained for at least thirty (30) minutes at a minimum temperature of seventy (70) degrees celsius.

4. Other methods. Other methods or operating conditions may be acceptable if pathogens are reduced to an extent equivalent to the reduction achieved by any of the above add-on methods.

Section 15. Solid Waste Composting. Residual wastes shall be composted under a granted permit-by-rule in accordance with 401 KAR 47:110.

(1) This section shall apply to any and all persons who compost solid waste other than wastewater treatment sludge for distribution.

(2) Applicants for a granted permit-by-rule for solid waste composting shall submit a notice of intent to apply with the following information:

(a) A complete description of the solid waste to be composted;

(b) A detailed engineering description of the system and the manufacturer's performance data for mechanical composting systems;

(c) Site layout, including an enlarged topographic map with a scale of one (1) inch equals 400 feet along with calculations for area requirements;

(d) A process design which shall describe:

1. Use of bulking agents, moisture control or feed amendments;

2. Temperature ranges and residence times;

3. Storage of compost during curing after the primary composting operation; and

4. Provision for additional drying and screening.

(e) An odor and vector control plan;

(f) A marketing and distribution plan addressing compliance with subsection (3) of this section;

(g) Specifications for the final product;

(h) A closure plan for the composting site; and

(i) A narrative detailing the methods that the owner or operator shall use to ensure compliance with the environmental performance standards in 401 KAR 47:030.

(3) Any person who composts residuals other than wastewater treatment or water treatment sludge shall:

(a) Label the materials to be marketed in accordance with the Kentucky Fertilizer Law KRS Chapter 250;

(b) Label the product with the source of the material and the application rate information;

(c) Keep a log of recipients who receive more than twenty (20) cubic yards in any given month;

(d) Maintain a permanent log of the amount of waste and the date on which it is initially composted and the amount and date on which the curing process begins; and

(e) After the composted waste has completed the curing process, distribute or dispose within one (1) year at least seventy-five (75) percent of the compost.

Section 16. Compliance Schedule. This section applies to all persons who were issued a landfarming permit prior to the effective date of this regulation and continue operation of their landfarming facility. Such persons shall do the following:

(1) Comply with the environmental performance standards of 401 KAR 47:030;

(2) Implement the operational requirements of Section 8 of this regulation and continue with the monitoring requirements as prescribed in the landfarming permit;

(3) Submit the annual landfarming review for the landfarming permit sixty (60) days prior to the anniversary date of the permit issuance;

(4) Upon receipt and review of the annual landfarming review, the cabinet shall assign a classification rating to the solid waste and notify the permit holder of any additional information needed to amend the landfarming permit such that it complies with the terms of 401 KAR 48:200.

(5) Any person who holds a granted permit-by-rule or permit-by-rule for landfarming shall notify the cabinet of his intent to continue operation of the facility by submitting a notice of intent to apply by October 1, 1990.

(6) Persons who were issued a permit prior to the effective date of this regulation and fail to file the required information or respond to correspondence pertaining to their permit within the dates established in the correspondence, shall no longer hold a permit for landfarming. Prohibited by KRS 224.835, such sites shall be considered to be open dumps, should any additional waste be disposed without securing a valid permit.

Section 17. Public Information Process. (1) Once the cabinet has made a preliminary determination to issue or deny a landfarming permit application, the permit applicant shall issue a public notice for approvals. The cabinet shall issue the public notice for denials. This notice shall be distributed by the cabinet as specified in Section 7(4) of 401 KAR 47:140. The contents of the public notice shall include those items listed in Section 7(1)(a) through (i) of 401 KAR 47:140. The cabinet shall make available a thirty (30) day comment period commencing with the date the notice is published.

Section 18. Repeal. 401 KAR 47:050, entitled Landfarming, is hereby repealed.

FRANK DICKERSON, Commissioner
CARL H. BRADLEY, Secretary
APPROVED BY AGENCY: January 9, 1990
FILED WITH LRC: January 15, 1990 at 9 a.m.

PUBLIC HEARING: A public hearing to receive comments on this proposed regulation will be conducted February 22, 1990 at 10 a.m. (EDT), in the first floor auditorium of the New State Office Building, High and Clinton Streets, Frankfort, Kentucky. Persons interested in attending this public hearing shall notify in writing at least five days prior to the hearing: David W. Morgan, Division of Waste Management, Frankfort Office Park, 18 Reilly Road, Frankfort, Kentucky 40601. Persons wishing to submit written comments without attending the hearing may do so, if the written comments are received in the Frankfort office of the Department for Environmental Protection by 4:30 p.m.(EDT) on February 22, 1990.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Susan C. Bush, Director

(1) Type and number of entities affected: The proposed regulation will affect approximately 51 landfarming permits and approximately 12 landfarming permit-by-rule sites along with any additional facilities which choose to obtain a landfarming permit or granted permit-by-rule. At this time, it is not known how many facilities will apply for a granted permit-by-rule for composting.

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

1. First year: Facilities which currently hold a landfarming permit may experience a decrease in their operating cost by as much as $450 per year if they have a sludge which qualifies as a Class I sludge. Facilities which do not have a high quality sludge will not incur any additional costs since full application and monitoring requirements are currently imposed on any owner or operator who wishes to obtain a landfarming permit or granted permit-by-rule.

Facilities which apply for a granted permit-by-rule for composting may experience a capital cost of as much as $100 to $200 per dry weight ton of sludge used in the composting process. Cost will be dependent upon the type of equipment, method of operation, and quantity of sludge to be composted.

2. Continuing costs or savings: All facilities may experience a savings of as much as $450 per year if they strive to improve the pretreatment of their sludge. However, facilities not willing to improve their sludge quality may experience a total environmental monitoring cost of $700 per year. Following the start up of operation of a composting facility and establishment of a market for the product, the cost per dry weight ton of sludge should decrease.

3. Additional factors increasing or decreasing costs (note any effects upon competition): Additional factors that can decrease the costs associated with landfarming and composting are the avoided cost of landfill disposal of these materials. Landfarming can be used for the disposal of approximately 20 tons per day for each 10 million gallons of wastewater treated per day. Composting can process approximately 10 percent of the solid waste stream. For a community of 100,000 population, approximately 17.5 tons of waste could be diverted per day. For landfill costs of $25 per ton, the combined avoided disposal costs for sludge and solid waste could be approximately $350,000 per year.

(b) Reporting and paperwork requirements: To comply with the proposed regulation, each owner or operator who wises to obtain a landfarming permit or granted permit-by-rule, shall submit an application to the division. Following approval, the owner or operator shall submit annual reports to the division detailing their landfarming and composting operation as required in both the current and proposed regulations.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The agency has projected the need to increase its staff to administer this program. Two person years may be required in addition to the one staff person currently available.

2. Continuing costs or savings: The proposed regulation will allow more municipal wastewater treatment facilities to consider landfarming and composting as an option; therefore, more applications will be submitted causing the cabinet to incur the cost to review the request and to send the determination to the facility. The cost to the cabinet is estimated to be $6,000 for a landfarming permit and $500 for a granted permit-by-rule.

3. Additional factors increasing or decreasing costs: No additional factors shall increase or decrease the cost.

(b) Reporting and paperwork requirements: While no new reporting or paperwork requirements will be imposed, an increase in the volume of applications and annual reports currently received will take place.

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: The proposed regulation will allow facilities which produce high quality sludge to dispose of their sludge in an environmentally safe manner while also decreasing the monitoring requirements imposed on them. Facilities which do not increase the quality of their sludge will continue to be required to follow full environmental monitoring requirements. The proposed regulation will replace 401 KAR 47:050.

Alternative: 1. Less stringent: The federal mandate will not allow the state to be less stringent.

2. More stringent: More stringent regulations are not needed since both the federal mandate and the proposed regulation are sound and will adequately protect the environment.

3. Present proposal: The proposed regulation will more clearly define the requirements for proper sludge disposal as mandated by federal regulations, while offering an incentive to facilities to improve sludge quality.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no known statutes, administrative regulations or government policies in conflict with the proposed regulation.

(a) Necessity of proposed regulation if in conflict: There is no conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no conflict.

(6) Any additional information or comments: There are no additional comments.

TIERING: Was tiering applied? Yes. Tiering was applied to enable owners or operators who wish to obtain a landfarming permit, or granted permit-by-rule, to easily identify the requirements placed on them due to the quality of the sludge which they produce.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 40 CFR Part 257 is the current federal mandate which has not been amended; however, the state regulations were in need of clarification to ensure compliance with the federal regulation.

2. State compliance standards. 401 KAR 47:050 currently holds language which is in compliance with the federal mandate 40 CFR Part 257; however, clarification of the regulatory language was needed to ensure compliance. The proposed regulation will replace 401 KAR 47:050.

3. Minimum or uniform standards contained in the federal mandate. Minimum operational and siting standards exist in 40 CFR Part 257. These standards are designed to protect the environment from any adverse impacts caused by the disposal of sewage sludge.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The proposed regulation will impose additional application and operating requirements on owners or operators who wish to obtain a landfarming permit or granted permit-by-rule. These additional requirements are no more stringent than the current federal mandate but more clearly define the requirements established in the federal mandate to ensure compliance. This proposed regulation will also establish regulatory guidelines for composting.

5. Justification for the imposition of the

stricter standard, or additional or different responsibilities or requirements. The current language found in 401 KAR 47:050 is very vague and disorganized. The proposed regulation will more clearly define the requirements for those owners or operators who wish to obtain a landfarming permit or granted permit-by-rule.

NATURAL RESOURCES & ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 48:300. Surface and groundwater monitoring and corrective action.

RELATES TO: KRS 224.005 through 224.110, 224.830 through 224.889, 224.994
STATUTORY AUTHORITY: KRS Chapter 13A, 224.033, 224.842
NECESSITY AND FUNCTION: KRS Chapter 224 requires the cabinet to adopt rules and regulations for the treatment, management, processing or disposal of wastes. KRS 224.842 requires that persons engaging in the management, processing or disposal of waste obtain a permit. This chapter establishes the minimum technical standards for solid waste sites or facilities. This regulation sets forth the standards for groundwater monitoring and corrective action.

Section 1. Applicability. The requirements of this regulation apply to owners and operators of contained, construction/demolition, and residual landfills, Class II and Class III landfarming facilities, other solid waste sites or facilities at which the cabinet determines groundwater monitoring shall be required and solid waste sites or facilities required to accomplish corrective action as a result of documented groundwater contamination. Sections 1 through 7 of this regulation do not apply to landfarming facilities permitted pursuant to 401 KAR 48:200. Landfarming facilities required to accomplish corrective action shall comply with Section 8 of this regulation. The owner or operator shall satisfy the requirements of this regulation for all wastes (or constituents thereof) contained in waste management units at the facility regardless of the time at which waste was placed in such unit.

Section 2. Surface Water Monitoring Plan. A surface water monitoring plan shall include:
(1) Documentation that the applicant currently holds or has applied for a KPDES permit for all structures that shall be used to control storm water run-off and all point source discharges.
(2) The location of surface water monitoring points identified on the engineering plans. The surface water monitoring points shall be located such that the sampling shall characterize the quality of water unaffected by the landfills and shall be located such that the sampling shall determine if water leaving the landfill in surface drainage is contaminated with leachate. Sampling protocol shall measure water that continues to drain after storm-induced surface run-off has ceased.
(3) A schedule and list of analytical parameters for the quarterly surface water sampling program. The parameters to be analyzed for the water samples shall include at a minimum: chlorides, sulfate, iron, sodium, total organic carbon or biochemical oxygen demand, chemical oxygen demand, specific conductance, total suspended solids, total dissolved solids, total solids and pH.
(4) A form to record the results of the surface water sample analyses.
(5) Prior to the disturbance of any areas proposed for development in a landfill permit application, the owner shall analyze samples of the surface water points and submit the results to the cabinet. The sampling shall include a minimum of two (2) samples collected at no less than thirty (30) day intervals and shall be sufficient to characterize the existing surface water quality.

Section 3. Groundwater Quality Characterization. A groundwater quality characterization as required in 401 KAR 47:190 shall contain the chemical characteristics of each water bearing unit down to and including the lowest unit that may be affected by the site or facility. This description shall include results of analysis of at least two (2) grab samples of groundwater from the site before waste placement for the parameters listed in Section 10 of this regulation.
(1) For facilities permitted before the effective date of this regulation, the data required by this section shall be taken beginning with the first anniversary date of the issuance of the permit after the effective date of this regulation.
(2) Monitoring wells under this section shall be designed, constructed and maintained according to Section 6 of this regulation. Sampling and analysis shall be conducted in accordance with a plan approved by the cabinet in accordance with the requirements of Section 7 of this regulation.

Section 4. Groundwater Monitoring Plan. A groundwater monitoring plan as required in 401 KAR 47:190 or 401 KAR 48:200 shall include:
(1) The number, location and depth of proposed monitoring points;
(2) Preoperational data showing existing groundwater quality, as required in the groundwater quality characterizaton in Section 3 of this regulation;
(3) A groundwater sampling and analysis plan. The procedures, methods and techniques shall be approved by the cabinet. The plan shall include:
(a) Procedures and techniques designed to accurately measure groundwater quality upgradient, beneath and downgradient of the proposed waste disposal area;
(b) Cabinet approved sampling methods including procedures and techniques for sample collection, sample preservation and sample shipment;
(c) Cabinet approved analytical procedures; and
(d) Chain of custody control, field and laboratory quality assurance and quality control. The procedures and methods shall be approved by the cabinet.
(4) For solid waste sites or facilities located in karst regions the following additional hydrogeologic information shall be required:
(a) The nature and extent of karst drainage beneath the solid waste site or facility; and
(b) A description of a proposed groundwater monitoring system capable of completely and

accurately monitoring groundwater contamination.

Section 5. Design Requirements for Groundwater Monitoring Systems. The groundwater quality monitoring system to be utilized in the groundwater monitoring plan shall accurately analyze groundwater quality and characterize regional and local groundwater flow and flow systems. The system shall consist, at a minimum, of the following:

(1) At least one (1) reference or background well at a point hydraulically upgradient from the disposal area in the direction of increasing static head that is capable of providing data representative of groundwater not affected by the solid waste site or facility. When the solid waste site or facility occupies the most upgradient position in the flow system, sufficient downgradient or side gradient monitoring wells shall be placed to accurately characterize the groundwater quality and regional and local groundwater flow and flow systems. Reference wells shall be located so that they shall not be affected by groundwater contamination from the disposal area; and

(2) At least three (3) monitoring wells at points hydraulically downgradient in the direction of decreasing static head from the area in which solid waste has been or shall be disposed. In addition to three (3) downgradient wells, the cabinet may allow one (1) or more springs for monitoring points if the springs are hydraulically downgradient from the area in which solid waste has been or shall be disposed, if the springs are developed and protected in a manner approved by the cabinet, and if the springs otherwise meet the requirements of the cabinet. Downgradient monitoring wells shall be located so that they shall provide early detection of groundwater contamination and progressive monitoring of the phases and units of the site or facility.

Section 6. Requirements for Monitoring Well Construction. (1) Precautions shall be taken during drilling and construction of monitoring wells to avoid introducing contaminants into a borehole. Only potable water shall be used in drilling monitoring wells unless otherwise approved by the cabinet. Drilling muds shall not be used except with prior approval of the cabinet. Air systems and drilling lubricants shall not introduce contaminants into the boreholes.

(2) Decontamination of all equipment to be placed into the boring shall be performed before use at the site and between boreholes. Where possible, upgradient wells shall be drilled first.

(3) Monitoring wells shall be cased as follows:

(a) To maintain the integrity of the monitoring well borehole by isolating water bearing units which are sampled by each well;

(b) With a minimum casing diameter of four (4) inches unless otherwise approved by the cabinet in writing;

(c) With screens or perforated and packed with gravel or sand where necessary, to enable collection of samples at depts where appropriate aquifer flow zones exist;

(d) To allow the casing to protrude at least one (1) foot above ground;

(e) To provide a drill hole diameter that is a minimum of four (4) inches larger than the outside diameter of the well casing;

(f) To produce an annular space above the sampling depth that is sealed to prevent contamination of samples and the groundwater; and

(g) If plastic casing is used, it shall be threaded and gasket sealed to preclude potential sample contamination from solvent welded joints, unless otherwise provided by the cabinet in the permit.

(4) Monitoring well casings shall be enclosed in a protective cover that shall:

(a) Be of sufficient strength to protect the well from damage by heavy equipment and vandalism;

(b) Be installed into firm rock unless otherwise approved by the cabinet in writing;

(c) Prevent the intrusion and nesting of insects inside the protective cover;

(d) Be grouted and placed with a cement collar below the frost line to hold it firmly in position unless otherwise approved by the cabinet;

(e) Be numbered and painted in a highly visible color;

(f) Protrude at least one (1) inch higher above grade than the monitoring well casing;

(g) Have a locked cap; and

(h) Be made of steel or any other material of equivalent strength.

(5) Each monitoring well shall have a concrete pad extending two (2) feet around the well and sloped away from the well.

Section 7. Sampling and Analysis. (1) Parameters Listing. Owners or operators of solid waste sites or facilities that require groundwater monitoring shall conduct sampling and analysis from each monitoring well for the parameters listed in Section 11 of this regulation.

(2) Reporting of analysis results. Analyses of data required by this section shall be submitted to the cabinet on a form provided by the cabinet within sixty (60) days of sampling or fifteen (15) days after completion of analyses, whichever is sooner, unless the cabinet approves another time period in the permit. Frequency of sampling shall be as indicated in Section 11 of this regulation.

(3) If analysis of the sample results indicates contamination, the owner or operator shall notify the cabinet within forty-eight (48) hours of receiving the analysis results and shall arrange for the cabinet to split a sample no later than ten (10) days from the receipt of the results.

Section 8. Groundwater Contamination Assessment and Corrective Action. (1) The operator of a solid waste site or facility shall be required to prepare and submit a groundwater assessment plan if laboratory analyses of one (1) or more public or private water supplies or monitoring wells at the site or facility shows the presence of one (1) or more parameters listed in 40 CFR 302.4, Appendix A above the maximum containment level (MCL) as specified in 401 KAR 47:030 or significant increase over naturally occurring background levels for parameters that have no MCL. For parameters that have no maximum contaminant levels a significant increase over background shall be determined using a statistical test as specified in Section 9 of this regulation.

(2) Confirmation sampling. The owner or operator of a solid waste site or facility shall

not be required to submit an assessment plan if the following conditions are met:

(a) Within ten (10) days after receipt of sample results showing groundwater contamination the owner or operator resamples the affected wells; and

(b) Analysis from resampling shows to the cabinet's satisfaction that groundwater contamination has not occurred.

(3) The owner or operator of a solid waste site or facility shall be required to provide alternate water supplies to affected parties within twenty-four (24) hours of notification of the cabinet that sample results indicate contamination of a drinking water supply.

(4) The assessment plan shall be submitted to the cabinet within thirty (30) days of the occurrence of the conditions described in subsection (1) of this section.

(a) The assessment plan shall specify the manner in which the owner or operator shall determine the existence, quality, quantity, areal extent and depth of groundwater degradation, and the rate and direction of migration of contaminants in the groundwater. The assessment plan shall be prepared by a professional in the field of hydrogeology and shall be implemented upon approval by the cabinet in accordance with the approved implementation schedule. The assessment plan shall be implemented within sixty (60) days after approval by the cabinet. The plan shall contain, at a minimum all of the following information:

1. The number, location, size, casing type and depth of wells, lysimeters, borings, pits, piezometers and other assessment structures or devices to be used;

2. Sampling and analytical methods for the parameters to be evaluated;

3. Analyses of all parameters listed in Section 10(3) of this regulation and any other parameter determined by the cabinet; and

4. Evaluation procedures, including the use of previously gathered groundwater quality information, to determine the concentration, rate and extent of groundwater degradation or pollution from the facility.

(5) For public or private water supplies which may be adversely affected by the facility, the owner or operator shall submit a detailed hydrogeologic study addressing the potential effect of the site or facility on said water supply.

(6) If the cabinet determines that the assessment plan is inadequate, it may modify the plan and approve the plan as modified.

(7) Within ninety (90) days after the implementation of the groundwater assessment plan, the operator shall submit a groundwater assessment report containing the new data collected, analysis of the data and recommendations on the necessity for abatement.

(8) The cabinet may require abatement measures prior to approval of the groundwater assessment plan.

(9) Within ninety (90) days of the cabinet approval of the groundwater assessment report, but in no event later than one (1) year from the event specified in subsection (1) of this section, the owner or operator shall submit a remedial action plan to include the following:

(a) The specific methods or techniques to be used to abate groundwater contamination from the facility;

(b) The specific methods or techniques to be used to prevent further groundwater contamination from the facility; and

(c) A description of the means used to restore or replace public or private water supplies affected by contamination from the solid waste facility.

(10) The owner or operator of a solid waste site or facility shall take any other steps deemed necessary by the cabinet to ensure protection of human health and the environment.

(11) Corrective action measures under this regulation shall be initiated and completed within a period of time as specified by the cabinet considering the extent of contamination.

(12) Corrective action measures under this regulation may be terminated upon approval of the cabinet when the owner or operator demonstrates that concentrations have been reduced to levels below the maximum contaminant level or naturally occurring background.

Section 9. Statistical Methods for Groundwater Analysis. (1) The owner or operator of a solid waste site or facility shall use statistical procedures approved by the cabinet in determining whether background values have been significantly exceeded.

(2) The owner or operator shall demonstrate that the procedure is appropriate for conditions at that facility and shall demonstrate that the procedure:

(a) Is protective of human health and the environment;

(b) Includes statistical distributions of each parameter or constituent listed;

(c) Has a low probability of indicating contamination when it is not present and of failing to detect contamination that is actually there;

(d) Is appropriate for the hydrogeologic setting and the physical layout of the monitoring system;

(e) Describes how observations below the quantifiable limit shall be handled; and

(f) Considers or controls for seasonal and spatial variability and temporal correlation.

Section 10. Groundwater Quality Characterization Parameters. For solid waste sites or facilities that require groundwater monitoring, the following parameters are to be analyzed for groundwater quality characterization as required in Section 2 of this regulation:

(1) For all Class II and III landfarming facilities required to monitor groundwater, the characterization shall be based on the following parameters:

(a) Specific conductance, chemical oxygen demand, total organic carbon, chloride, iron, manganese, sodium, total nitrogen, nitrate nitrogen, chromium, cadmium, coliform bacteria, pH, calcium, magnesium, potassium, sulfate, bicarbonate, carbonate.

(b) Groundwater elevation in monitoring wells recorded as a distance from the elevation at the wellhead referenced to mean sea level based on a United States Geological Survey (USGS) datum.

(2) For residual and construction/demolition debris landfills, the characterization shall be based on the following parameters:

(a) Chloride, chemical oxygen demand, total dissolved solids, total organic carbon, specific conductance, pH, iron, sodium, arsenic, barium,

cadmium, lead, mercury, nitrate, selenium, silver, pH, calcium, magnesium, potassium, sulfate, bicarbonate, carbonate.

(b) Groundwater elevations recorded as a distance from the elevation at the wellhead referenced to mean sea level based on a United States Geological Survey (USGS) datum.

(3) For contained landfills, the characterization shall be based on the following parameters:

(a) Indicators: Specific conductance, chemical oxygen demand, total dissolved solids, total organic carbon, pH, chloride, iron, manganese, sodium, bicarbonate, calcium, sulfate, magnesium, potassium, carbonate.

(b) Hazardous Constituents.

Systematic Name	CAS RN	Common Name
Acenaphthylene	206-96-8	Acenaphthalene
Acenaphthylene, 1,2-dihydro-	83-32-9	Acenaphthene
Acetamide, N-(4-ethoxyphenyl)-H	62-44-2	Phenacetin
Acetamide, N-9H-fluoren-2-yl	53-96-3	2-Acetylamino-fluorene
Acetic acid ethenyl ester	106-05-4	Vinyl acetate
Acetic acid (2,4-5-trichlorophenoxy)-	93-76-5	2,4,5-T
Acetic acid (2,4-dichlorophenoxy)-	94-75-7	2,4-Dichlorophenoxy- acetic acid
Acetonitrile	75-05-8	Acetonitrile
Aluminum	7429-90-5	Aluminum (total)
Anthracene	120-12-7	Anthracene
Antimony	7440-36-0	Antimony (total)
Aroclor 1016	12674-11-2	Aroclor 1016
Aroclor 1221	11104-28-2	Aroclor 1221
Aroclor 1232	11141-16-5	Aroclor 1232
Aroclor 1242	53469-21-9	Aroclor 1242
Aroclor 1248	12672-29-6	Aroclor 1248
Aroclor 1254	11097-69-1	Aroclor 1254
Aroclor 1260	11096-82-5	Aroclor 1260
Arsenic	7440-38-2	Arsenic (total)
Barium	7440-39-3	Barium (total)
Benz(a)anthracene,7,12,-dimethyl	57-97-6	7,12-Dimethyl-benz(a)-anthracene
Benz(j)aceanthrylene, 1,2-dihydro-3-methyl	56-49-5	3-Methylcholanthrene
Benz(e)acephenanthrylene	205-99-2	Benzo(b)fluoranthene
Benzamide, 3,5-dichloro-N-(1,1-dimethyl-2-propynyl)-	23950-58-5	Pronamide
Benz(a)anthracene	56-55-3	Benz(a)anthracene
Benzenamine	62-53-3	Aniline
Benzenamine, 2-methyl-5-nitro	99-55-8	5-Nitro-o-toluidine
Benzenamine, 2-nitro	88-74-4	2-Nitroaniline
Benzenamine, 3-nitro	99-09-2	3-Nitroaniline
Benzenamine, 4-chloro	106-47-8	p-Chloroaniline
Benzenamine, 4-nitro-	100-01-6	p-nitroaniline
Benzenamine,4,4'-methylenebis (2-chloro	101-14-4	4,4'-Methylene-bis (2-chloro-aniline)
Benzenamine, N-nitroso-N-phenyl	86-30-6	N-Nitrosodi-phenylmamine
Benzenamine, N-phenyl-	122-39-4	Diphenylamine
Benzenamine, N,N-dimethyl-4-(phenylazo)-	60-11-7	p-Dimethylamino-azobenzene
Benzene	71-43-2	Benzene
Benzene, 1-bromo-4-phenoxy-	101-55-3	4-Bromophenyl phenyl ether
Benzene, 1-chloro-4-phenoxy-	7005-72-3	4-Chlorophenyl phenyl ether
Benzene, 1-methyl-2,4-dinitro	121-14-2	2,4-Dinitrotoluene
Benzene, 1,1'-(2,2,2-trichloroethylidene)bis(4-chloro-	50-29-3	DDT
Benzene, 1,1'-(2,2,2-trichloroethylidene)bis(4-methoxy-	72-43-5	Methoxychlor
Benzene 1,1'-(2,2-dichloroethylidene)bis(4-chloro-	72-54-8	DDD
Benzene 1,1'-(2,2-dichloroethenylidene)bis(4-chloro-	72-55-9	DDE
Benzene 1,2-dichloro	95-50-1	o-Dichlorobenzene
Benzene 1,2,4-trichloro	120-82-1	1,2,4-trichlorobenzene
Benzene 1,2,4,5-tetrachloro	95-94-3	1,2,4,5-Tetrachlorobenzene
Benzene 1,3-dichloro-	541-73-1	M-Dichlorobenzene
Benzene 1,4-dichloro-	106-46-7	p-Dichlorobenzene
Benzene 1,4-dinitro-	100-25-4	meta-Dinitrobenzene
Benzene, 2-methyl-1,3-dinitro	606-20-2	2,6-Dinitrotoluene
Benzene, chloro-	108-90-7	Chlorobenzene
Benzene, dimethyl-	1330-20-7	Xylene (total)
Benzene, ethenyl-	100-42-5	Styrene
Benzene, ethyl-	100-41-4	Ethyl benzene
Benzene, hexachloro	118-74-1	Hexachlorobenzene
Benzene, methyl	106-88-3	Toluene
Benzene, nitro	96-95-3	Nitrobenzene
Benzene, pentachloro-	608-93-5	Pentachlorobenzene
Benzene, pentachloro-nitro-	82-68-8	Pentachloronitrobenzene
Benzeneacetic acid, 4-chloro-a-(4-chlorophenyl)-a-hydroxy-, ethyl ester	510-15-6	Chlorobenzilate
1,2-Benzenedicarboxylic acid, bis(2-ethylhexyl)ester	117-81-7	Bis(2-ethylhexyl)phthalate
1,2-Benzenedicarboxylic acid, butyl phenylmethyl ester	85-68-7	Butyl benzyl phthalate
1,2-Benzenedicarboxylic acid, dibutyl ester	84-74-2	Di-n-butyl phthalate
1,2-Benzenedicarboxylic acid, diethyl ester	84-66-2	Diethyl phthalate
1,2-Benzenedicarboxylic acid, dimethyl ester	131-11-3	Dimethyl phthalate
1,2-Benzenedicarboxylic acid, dioctyl ester	117-84-0	Di-n-octyl phthalate
1,3-Benzenediol	106-46-3	Resorcinol
Benzeneethanamine, a, a-dimethyl-	122-09-8	alpha, alpha-dimethylphenethylamine
Benzenemethanol	100-51-8	Benzyl alcohol
Benzenethiol	106-98-5	Benzenethiol
1,3-Benodioxole, 5-(1-propenyl)-	120-58-1	Isosafrole

1,3-Benzodioxole, 5-(2-propenyl)-	94-59-7	Safrole
Benzo(k)fluoranthene	207-08-9	Benzo(k)fluoranthene
Benzoic acid	65-85-0	Benzoic acid
Benzo(rst)pentaphene	189-55-9	Dibenzo(a,i)pyrene
Benzo(ghi)perylene	191-24-2	Benzo(ghi)perylene
Benzo(a)pyrene	50-32-8	Benzo(a)pyrene
Beryllium	7440-41-7	Beryllium (total)
1,1-Biphen(yi)4,4'-diamine, 3,3'-dichloro-	91-94-1	3,3'-Dichlorobenzidine
1,1-Biphen(yi)-4,4'-diamine, 3,3'-dimethoxy-	119-90-4	3,3'-Dimethoxybenzidine
1,1'Biphen(yi)-4,4'-diamine, 3,3' dimethyl-	119-93-7	3,3'-Dimethylbenzidine
1,1'-Biphenyl(-4-amine	92-67-1	4-Aminobiphenyl
1,1'-Biphenyl(-4-4-amine	92-87-5	Benzidine
1,3-Butadiene, 1,1,2,3,4,4-hexachloro-	87-68-3	Hexachlorobutadiene
1,3-Butadiene, 2-chloro-	126-99-8	2-Chloro-1,3-butadiene
1-Butanamine, N-butyl-N-nitroso-	924-16-3	N-Nitrosodi-n-butylamine
2-Butanone	78-93-3	Methyl ethyl ketone
2-Butene, 1,4-dichloro-, (E)-	110-57-6	trans-1,4-Dichloro-2-butene
Cadmium	7440-43-9	Cadmium (total)
Calcium	7440-70-2	Calcium (total)
Carbon disulfide	75-15-0	Carbon disulfide
Chromium	7440-47-3	Chromium (total)
Chrysene	218-01-9	Chrysene
Cobalt	7440-48-4	Cobalt (total)
Copper	7440-50-8	Copper (total)
Cyanide	57-12-5	Cyanide
2,5-Cyclohexadiene-1,4-dione	106-51-4	p-Benzoquinone
Cyclohexane, 1,2,3,4,5,6-hexachloro- (1a,2a,3B,4a,5B,6B)-	319-84-6	alpha-BHC
Cyclohexane, 1,2,3,4,5,6-hexachloro- (1a,2B,3a,4B,5a,6B)-	319-85-7	beta-BHC
Cyclohexane, 1,2,3,4,5,6-hexachloro- (1a,2a,3a,4B,5a,6B)-	319-86-8	delta-BHC
Cyclohexane, 1,2,3,4,5,6-hexachloro- (1a,2a,3B,4a,5a,6B)-	58-89-9	gamma-BHC
2-Cyclohexene-1-one, 3,5,5-trimethyl	78-59-1	Isophorone
1,3-Cyclopentadiene, 1,2,3,4,5,5-hexachloro-	77-47-4	Hexachlorocyclopentadiene
Dibenz(a,h)anthracene	53-70-3	Dibenz(a,h)anthracene
Dibenzo(b,e)(1,4)dioxin, 2,3,7,8-tetrachloro-	1746-01-06	2,3,7,8-Tetrachlorodibenzo-p-dioxin; Hexachlorodibenzo-p-dioxin; Pentachlorodibenzo-p-dioxins; Tetra-chlorodibenzo-p-dioxins
Dibenzo(b,def)chrysene	189-64-0	Dibenzo(a,h)pyrene
Dibenzofuran	132-64-9	Dibenzofuran, Hexachlorodibenzofurans; Penta-chlorodibenzo-furans; Tetrachlorodibenzofurans.
2,7:3,6-Dimethanonaphth (2,3-b)oxirene, 3,4,5,6,9,9-hexachloro-1a,2,2a,3,6,6a,7,7a-octahydro, 1aa,2B,2aa,3B,6B,6aa,7B,7aa)-	60-57-1	Dieldrin
2,7:3,6-Dimethanonaphth (2,3-b)oxirene, 3,4,5,6,9,9-hexachloro-1a,2,2a,3,6,6a,7,7a-octahydro, 1aa,2B,2aB,3a,6a,6aB,7B,7aa)-	72-20-8	Endrin
1,4:5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexachloro-1,4,4a,5,8,8a-hexahydro-,1aa,4a,4aB,5a,8a,8aB)-	309-00-2	Aldrin
1,4:5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexachloro-1,4,4a,5,8,8a-hexahydro-,1aa,4a,4aB,5B,8B,8aB)-	465-73-6	Isodrin
1,4-Dioxane	123-91-1	1,4-Dioxane
Ethanamine, N-ethyl-N-nitroso	55-18-5	N-Nitrosodiethylamine
Ethanamine, N-methyl-N-nitroso	10595-95-6	N-Nitrosomethylethyl amine
Ethane, 1,1-dichloro-	75-34-3	1,1-Dichloroethane
Ethane, 1,1'-(methylenebis(oxy))bis(2-chloro-	111-91-1	Bis(2-chloroethoxy) methane
Ethane, 1,1'-oxybis(2-chloro-	111-44-4	Bis(2-chloroethyl) ether
Ethane, 1,1'tri-chloro-	71-55-6	1,1,1-Trichloroethane
Ethane, 1,1,1,2-tetrachloro-	630-20-6	1,1,1,2-Tetrachloroethane
Ethane, 1,1,2-trichloro-	79-00-5	1,1,2-Trichloroethane
Ethane, 1,1,2,2-tetrachloro-	79-34-5	1,1,2,2-Tetrachloro ethane
Ethane, 1,2-dibromo	106-93-4	1,2-Dibromoethane
Ethane, 1,2-dichloro	107-06-2	1,2-Dichloroethane
Ethane, chloro-	75-00-3	Chloroethane
Ethane, hexachloro-	67-72-1	Hexachloroethane
Ethane, pentachloro-	76-01-7	Pentachloroethane
1,2-Ethanediamine, N,N-dimethyl-N'-'2-pyridinyl-n'-(2-thienylmethyl)-	91-80-5	Methapyrilene
Ethanone, 1-phenyl-	98-86-2	Acetophenone
Ethene, (2-chloroethoxy)-	110-75-8	2-Chloroethyl vinyl ether
Ethene, 1,1-dichloro-	75-35-4	1,1-Dichloroethylene
Ethene, 1,2-dichloro-(e)-	156-60-5	trans-1,2-Dichloroethene
Ethene, chloro-	75-01-4	Vinyl chloride

Ethene, tetrachloro-	127-18-4	Tetrachloroethene
Ethene, trichloro-	79-01-6	Trichloroethene
Fluoranthene	206-44-0	Fluoranthene
Fluoride	12984-48-8	Fluoride
9H-Fluorene	86-73-7	Fluorene
2-Hexanone	591-78-6	2-Hexanone
Hydrazine, 1,2-diphenyl-	122-66-7	1,2-Diphenylhydrazine
Indeno(1,2,3-cd) pyrene	193-39-5	Indeno(1,2,3-cd) pyrene
Iron	7439-89-6	Iron (total)
Lead	7439-92-1	Lead (total)
Magnesium	7439-94-4	Magnesium (total)
Manganese	7439-96-5	Manganese (total)
Mercury	7439-97-6	Mercury (total)
Methanamine, N-methyl-N-nitroso	62-75-9	N-Nitrosodimethylamine
Methane, bromo-	74-83-9	Bromomethane
Methane, bromodichloro-	75-27-4	Bromodichloromethane
Methane, chloro	74-87-3	Chloromethane
Methane, dibromo-	74-95-3	Dibromomethane
Methane, dibromochloro-	124-48-1	Chlorodibromomethane
Methane, dichloro-	74-09-2	Dichloromethane
Methane, Dichlorodifluoro-	75-71-8	Dichlorodifluoromethane
Methane, iodo	74-88-4	Iodomethane
Methane, tetrachloro-	56-23-5	Carbon Tetrachloride
Methane, tribromo-	75-25-2	Tribromomethane
Methane, trichloro-	67-66-3	Chloroform
Methane, trichlorofluoro	75-69-4	Trichloromonofluoro methane
Methanesulfonic acid, methyl ester	66-27-3	Methyl methanesulfonate
Methanethiol, trichloro-	75-70-7	Trichloromethanethiol
4,7-Methano-1H-indene-1,2,4,5,6,7,8,8-octachloro-2,3,3a,4,7,7a-hexahydro	57-74-9	Chlordane
4,7-Methano-1H-indene-1,4,5,6,7,8,8-heptachloro-3a,4,7,7a-tetrahydro-	76-44-8	Heptachlor
2,5-Methano-2H-indeno(1,2-b)oxirene, 2,3,4,5,6,7,7-heptachloro-1a,1b,5,5a,6,6a-hexahydro-, (1aa,1bB,2a,5a,5aB,6B,6aa)	1024-57-3	Heptachlor epoxide
6,9-Methano-2,4,3-benzo-dioxathiepin, 6,7,8,9,10,10-hexachloro-1,5,5a,6,9,9a-hexahydro-,3-oxide, (3a,5aB,6a,9a,9aB)	959-96-8	Endosulfan I
6,9-Methano-2,4,3-benzo-dioxathiepin, 6,7,8,9,10,10-hexachloro-1,5,5a,6,9,9a-hexahydro-,3-oxide, (3a,5aa,6B,9B,9aa)	33213-65-9	Endosulfan II
1,3,4-Methano-2H-cyclobutal(cd) pentalen-2-one, 1,1a,3,3a,4,5,5,5a,5b,6-decachloro-octahydro-	143-50-0	Kepone
1,2,4-Methanocyclopenta(cd)pentalene-5-carboxaldehyde, 2,2a,3,3,4,7-hexachlorodecahydro-, (1a,2B,2aB,4B,4aB,5B,6aB,6aB,7R*)	7421-93-4	Endrin aldehyde
Morphonline, 4-nitroso-	59-89-2	N-Nitrosomorpholine
1-Naphthalenamine	134-32-7	1-Naphthylamine
2-Naphthalenamine	91-59-8	2-Naphthylamine
Naphthalene	91-20-3	Naphthalene
Naphthalene, 2-chloro-	91-58-7	2-chloronaphthalene
Naphthalene, 2-methyl-	91-57-6	2-Methylnaphthalene
1,4-Naphthalenedione	130-15-4	1,4-Naphthoquinone
Naphtho(1,2,3,4-def) chrysene	192-65-4	Dibenzo(a,e) pyrene
Nickel	7440-02-0	Nickel (total)
Osmium	7440-04-2	Osmium (total)
Oxirane	75-21-8	Ethylene oxide
2-Pentanone, 4-methyl-	108-10-1	4-Methyl-2-pentanone
Phenanthrene	85-01-8	Phenanthrene
Phenol	108-95-2	Phenol
Phenol, 2-(1-methylpropyl)-4,6-dinitro	88-85-7	2-sec-Butyl-4,6-dinitro-phenol
Phenol, 2-chloro-	95-57-8	2-Chlorphenol
Phenol, 2-methyl-	95-48-7	ortho-Cresol
Phenol, 2-methyl-4,6-dinitro-	534-52-1	4,6-Dinitro-o-cresol
Phenol, 2-nitro	88-75-5	2-Nitrophenol
Phenol, 2,2'-methylenebis (3,4,6-trichloro)-	70-30-4	Hexachlorophene
Phenol, 2,3,4,6-tetrachloro-	58-90-2	2,3,4,6-Tetrachlorophenol
Phenol, 2,4-dichloro	120-83-2	2,4-Dichlorophenol
Phenol, 2,4-dimethyl-	105-67-9	2,4-Dimethylphenol
Phenol, 2,4-dinitro-	51-28-5	2,4-Dinitrophenol
Phenol, 2,4,5-trichloro	95-95-4	2,4,5-Trichlorophenol
Phenol, 2,4,6-trichloro-	88-06-2	2,4,6-Trichlorophenol
Phenol, 2,6-dichloro-	87-65-0	2,6-Dichlorophenol
Phenol, 4-chloro-3-methyl-	59-50-7	p-Chloro-m-cresol
Phenol, 4-methyl-	106-44-5	para-Cresol
Phenol, 4-nitro	100-02-7	4-Nitrophenol
Phenol, pentachloro-	87-86-5	Pentachlorophenol
Phosphorodithioic acid, 0,0-diethyl S-((ethylthio) methyl) ester	298-02-2	Phorate
Phosphorodithioic acid, 0,0-diethyl S-(2-(ethylthio) ethyl) ester	298-04-4	Disulfoton
Phosphorothioic acid, 0-(4-((dimethylamino)sulfonyl) phenyl)0,0-dimethyl ester	52-85-7	Famphur
Phosphorothioic acid, 0,0-diethyl 0-(4-nitrophenyl ester	56-38-2	Parathion

Phosphorothioic acid, 0,0-diethyl 0-pyrazinyl ester	297-97-2	0,0-Diethyl 0,2-pyrazinyl phosphorothioate
Phosphorothioic acid, 0,0-dimethyl 0-(4-nitrophenyl) ester	298-00-0	Methyl parathion
Piperidine, 1-nitroso-	100-75-4	N-Nitrosopiperidine
Potassium	7440-09-7	Potassium (total)
1-Propanamine, N-nitroso-N-propyl-	621-64-7	Di-n-propylnitrosamine
Propane, 1,2-dibromo-3-chloro	96-12-8	1,2-Dibromo-3-chloropropane
Propane, 1,2-dichloro-	78-87-5	1,2-Dichloropropane
Propane, 1,2,3-trichloro-	96-18-4	1,2,3-Trichloropropane
Propane, 2,2'-oxybis (1-chloro-	108-60-1	Bis(2-chloroisopropyl) ether
Propanedinitrile	109-77-3	Malononitrile
Propanenitrile	107-12-0	Ethyl cyanide
Propanenitrile, 3-chloro-	542-76-7	3-Chloropropionitrile
Propanoic acid, 2-(2,4,5-trichlorophenoxy)-	93-72-1	Silvex
1-Propanol, 2,3-dibromophosphate (3:1)	126-72-7	Tris(2,3-dibromopropyl) phosphate
1-Propanol, 2-methyl-	78-83-1	Isobutyl alcohol
2-Propanone	67-64-1	Acetone
2-Propenal	107-02-8	Acrolein
1-Propene, 1,1,2,3,3,3,-hexachloro-	1888-71-7	Hexachloropropene
1-Propene, 1,3-dichloro-, (E)-	10061-02-6	trans-1,3-Dichloropropene
1-Propene, 1,3-dichloro-, (Z)-	10061-01-5	cis-1,3-Dichloropropene
1-Propene, 1,3-chloro-	107-05-1	3-Chloropropene
2-Propenenitrile,2-methyl	126-98-7	Methacrylonitrile
2-Propenenitrile	107-13-1	Acrylonitrile
2-Propenoic acid, 2-methyl-, ethyl ester	97-63-2	Ethyl methacrylate
2-Propenoic acid, 2-methl-, methyl ester	80-62-6	Methyl methacrylate
2-Propen-1-ol	107-18-6	Allyl alcohol
2-Propyn-1-ol	107-19-7	2-Propyn-1-ol
Pyrene	129-00-0	Pyrene
Pyridine	110-86-1	Pyridine
Pyridine, 2-methyl-	109-06-8	2-Picoline
Pyridine, 1-nitroso-	930-55-2	N-nitrosopyrrolidine
Selenium	7782-49-2	Selenium (total)
Silver	7440-22-4	Silver (total)
Sodium	7440-23-5	Sodium (total)
Sulfide	18496-25-8	Sulfide
Sulfurous acid, 2-chloroethyl 2-(4d-(1,1-dimethylethyl) phenoxy)-1-methyl-ethyl ester	140-57-8	Aramite
Thallim	7440-28-0	Thallim (total)
Thiodiphosphoric acid $((HO)_2 P(S))_2$, tetraethyl ester	3689-24-5	Tetraethyldithiopyrophosphate
Tin	7440-31-5	Tin (total)
Toxaphene	8001-35-2	Toxaphene
Vanadium	7440-62-2	Vanadium (total)
Zinc	7440-66-6	Zinc (total)

(c) Groundwater elevations in monitoring wells recorded as a distance from the elevation at the wellhead referenced to mean sea level based on a United States Geological Survey datum.

(4) For residual landfills this characterization shall include parameters approved by the cabinet based upon the chemical analysis of the waste.

(5) For other sites or facilities the characterization shall be for parameters determined by the cabinet.

Section 11. Groundwater Monitoring Parameters. (1)(a) Operators of Class II and Class III landfarming facilities requiring groundwater monitoring shall monitor for the following parameters on a semiannual basis: chemical oxygen demand, total organic carbon, total nitrogen, nitrate nitrogen, lead, chromium, cadmium, coliform bacteria;

(b) Groundwater elevations in monitoring wells recorded as a distance from the elevation at the wellhead referenced to mean sea level based on a USGS datum; and

(c) Other parameters as approved by the cabinet based on the waste analysis.

(2) Operators of residual and construction/demolition debris landfills shall monitor semiannually for the following:

(a) Chloride, chemical oxygen demand, total dissolved solids, total organic carbon, specific conductance, pH, iron, sodium;

(b) Arsenic, barium, cadmium, chromium, lead, mercury, nitrate, selenium;

(c) Groundwater elevations in monitoring wells recorded as a distance from the elevation at the wellhead referenced to mean sea level based on a USGS datum;

(d) Other parameters as approved by the cabinet based on the waste analysis; and

(e) If after four (4) initial quarterly monitoring periods, analysis for the parameters in paragraphs (a) through (d) of this subsection indicates no exceedences above levels specified in Section 8(1) of this regulation, the owner or operator may, upon request, be granted permission from the cabinet to reduce the monitoring parameters to those listed in paragraph (a) of this subsection.

(3) Operators of contained landfills shall be required to monitor quarterly for the following parameters:

(a) Chloride, chemical oxygen demand, total dissolved solids, total organic carbon, specific conductance, pH, iron, sodium, total organic halides, arsenic, barium, cadmium, chromium, lead, mercury, nitrate, selenium, silver;

(b) Acetone; acrolein; acrylonitrile; benzene; bromochloromethane; bromodichloromethane; 4-bromofluorobenzene; bromoform; bromomethane; 2-butanone (methyl ethyl ketone); carbon disulfide; carbon tetrachloride; chlorobenzene; chlorodibromomethane; chloroethane; 2-chloroethyl vinyl ether; chloroform; chloromethane; dibromomethane; 1,4-dichloro-2-butane; dichlorodifluoromethane; 1,1-dichloroethane; 1,2-dichloroethane; cis-1,3-dichloropropene; trans-1,3-dichloropropene; 1,4-difluorobenze; ethanol; ethylbenzene; ethyl methacrylate; 2-hexanone; iodomethane; methylene chloride; 4-methyl-2-pentanone; 1,1-dichloroethene; trans-1,2-dichloroethene; styrene; 1,1,2,2-tetrachloroethane; toluene; 1,1,1-trichloroethane; 1,1,2-trichloroethane;

trichloroethane; trichlorofluoromethane, 1,2,3-trichloropropane; vinyl acetate; vinyl chloride; xylene;

(c) Groundwater elevations recorded as a distance from the elevation at the wellhead referenced to mean sea level based on a United States Geologic Survey datum;

(d) Other parameters as approved by the cabinet based on the waste analysis; and

(e) If after four (4) initial quarterly monitoring periods, analysis for the parameters in paragraphs (a) and (b) of this subsection indicates no exceedences above the levels specified in Section 8(1) of this regulation, the owner or operator may obtain permission from the cabinet to reduce the monitoring parameters to the following:

1. Chloride;
2. Chemical oxygen demand;
3. Total dissolved solids;
4. Total organic carbon;
5. Specific conductance;
6. pH;
7. Iron;
8. Sodium; and
9. Total organic halides.

(4) Operators of residual landfills shall monitor quarterly for parameters to be determined by the cabinet based upon chemical analysis of the waste to be disposed.

(5) Other solid waste sites or facilities shall monitor for parameters and at a frequency determined by the cabinet.

FRANK DICKERSON, Commissioner
CARL H. BRADLEY, Secretary

APPROVED BY AGENCY: January 9, 1990

FILED WITH LRC: January 15, 1990 at 9 a.m.

PUBLIC HEARING: A public hearing to receive comments on this proposed regulation will be conducted February 22, 1990 at 10 a.m. (EDT), in the first floor auditorium of the New State Office Building, High and Clinton Streets, Frankfort, Kentucky. Persons interested in attending this public hearing shall notify in writing at least five days prior to the hearing: David W. Morgan, Division of Waste Management, Frankfort Office Park, 18 Reilly Road, Frankfort, Kentucky 40601. Persons wishing to submit written comments without attending the hearing may do so, if the written comments are received in the Frankfort office of the Department for Environmental Protection by 4:30 p.m.(EDT) on February 22, 1990.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Susan C. Bush, Director

(1) Type and number of entities affected: The division anticipates that the future permitting of approximately 25 contained landfills will be affected by the addition of 40 volatile organic constituents to their groundwater monitoring parameters. Corrective action can be applied to any solid waste site or facility. This proposed regulation will require all construction/demolition and residual landfills to monitor surface water. This will affect approximately 50 landfills.

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

1. First year: Costs for including the 40 volatile organic constituents in groundwater monitoring are as follows:

Lowest Expected Cost

4 wells x $250 (VOA analysis) x 4 sampling periods = $4,000/first year.
30 wells x $250 (VOA analysis) x 4 sampling periods = $30,000/first year.

Highest Expected Cost

4 wells x $400 (VOA analysis) x 4 sampling periods = $6,400/first year.
30 wells x $400 (VOA analysis) x 4 sampling periods = $48,000/first year.

The minimum number of wells required for contained landfills is four. However, some facilities may have as many as 30 wells.

Total costs state wide for the first year for an average of 11 wells = $110,000. (11 wells/site x $400 x 25 = $110,000.)

Additional costs for construction/demolition and residual landfills for surface water monitoring are as follows:

2 sampling points x $50 (analysis) x 4 quarters = $400.

Total costs statewide will be $20,000. ($400 x 50 sites = $20,000.)

After the first year of groundwater sampling the site may reduce the list of parameters. This would reduce the cost of sampling by $250 to $400 per sample. Cost for corrective action would vary from site to site. Costs could range from a few hundred thousand dollars to several million dollars. Corrective action is currently required by statute (KRS Chapter 224). This proposed regulation sets the standards for corrective action. This would not add to the current costs of this requirement.

2. Continuing costs or savings: After the first year of groundwater sampling, the site may reduce the list of groundwater parameters to be sampled, eliminating the 40 volatile organics. Therefore, the per sample cost would be reduced by $250 to $400 per sample.

3. Additional factors increasing or decreasing costs (note any effects upon competition): A limited number of Kentucky laboratories are capable of analyzing for these additional parameters. If the number of labs with the capability to run these analyses increases, the cost should decrease.

(b) Reporting and paperwork requirements: Some additional paperwork will be required for the additional groundwater parameters. Surface water monitoring will require additional paperwork to report the surface water analysis as part of the quarterly report.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Review time for groundwater and surface water reports will increase. This will require an additional two person years.

2. Continuing costs or savings: Any continued cost after the first year would depend on the number of sites that are monitoring for the additional groundwater parameters. The division anticipates that many solid waste sites will need to enter corrective action. These sites will be identified as the groundwater protection program evolves. The potential need for staff and resources will increase as the division discovers sites in noncompliance. The division cannot predict the needed resources until sites have been characterized.

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: Reporting and paperwork requirements will be

increased for sites not now monitoring.

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state revenues from promulgation of this regulation. There will be no effect on local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: The proposed changes from the current requirements are to add the list of 40 volatile organic constituents to groundwater monitoring and to require surface water monitoring for construction/demolition and residual landfills.

Alternative: 1. Less stringent: The organic parameters would not be detected if the facility is not required to monitor for these parameters. Some of these parameters have been found in municipal landfill leachate. Keeping the current list of constituents in 401 KAR 30:030 would not meet the proposed federal Subtitle D requirements or 8 volatile organic constituents and their maximum contaminant levels added to the Safe Drinking Water Act in July, 1987. In order to determine whether construction/ demolition and residual landfills are in compliance with the Clean Water Act it will be necessary to monitor surface water.

2. More stringent: Monitoring groundwater for the entire list of Appendix II parameters in proposed 40 CFR 258 every quarter is not necessary and would be an additional expense.

3. Present proposal: The proposed parameters are sufficient to detect a possible groundwater contamination problem. However, once contamination has been detected, the entire list of Appendix II parameters can be required.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No statute, administrative regulation or government policy is in conflict, is overlapping or is duplicated by this proposed regulation.

(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: There are no additional comments.

TIERING: Was tiering applied? Yes. The regulations of 401 KAR Chapters 47 and 48 use multiple tiering systems. Permit-by-rule in 401 KAR 47:150, and granted permit-by-rule in 401 KAR 47:110 give certain practices and management activities a method of avoiding full permits. Emergency permits and research, development and demonstration permits in 401 KAR 47:150 provide permitting mechanisms for certain situations. The 3 types of solid waste landfills (contained, residual and construction/demolition debris) and the 3 classes of landfarming provide for a tiering mechanism based on the type and quality of the waste received.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Subtitle D of RCRA is the federal waste statute. 40 CFR Part 257 sets standards for classification of open dumps. Kentucky has adopted a form of these rules as the environmental performance standards. Included in 40 CFR Part 257 are the maximum contaminant levels promulgated in Section 1412 of the Safe Drinking Water Act (SDWA). In July 1987, 8 volatile organics were added to the SDWA. Part 257 also prohibits solid waste disposal facilities from discharging pollutants or dredged or fill material to waters of the United States that are in violation of Section 402 or 404 of the Clean Water Act. Further, U.S. EPA proposed revisions to 40 CFR Parts 257 and 258 on August 31, 1989. This proposed regulation incorporates the requirement to protect groundwater from contamination by any constituent listed in 40 CFR Part 302.4, Appendix A. Under a 1984 amendment to the Resource Conservation and Recovery Act, the U.S. EPA was required to revise their existing solid waste regulations for facilities receiving household hazardous wastes or hazardous wastes from persons who generate less than 220 pounds per month. The federal law specifies in Section 4010(c) that, at a minimum, the revisions shall include groundwater monitoring to detect contamination, establish criteria for the acceptable location of new or existing facilities, and provide for corrective action as appropriate. On August 30, 1988, the federal government proposed revisions to the existing solid waste regulations. If the administrator of the U.S. EPA determines that a state has not adopted an adequate permit the EPA may enforce the revised federal criteria at facilities that may receive household hazardous wastes and hazardous wastes from persons who generate less than 220 pounds per month.

2. State compliance standards. KRS Chapter 224 is the environmental protection authority for the Commonwealth of Kentucky. The specific sections referenced by the regulation are KRS 224.842, 224.876 and 224.877. The federal law requires states to adopt a permitting procedure, but the proposed federal regulations do not adopt a federal standard. This proposed regulation continues the current state procedures while drawing procedural language from the federal permitting waste regulations.

3. Minimum or uniform standards contained in the federal mandate. 40 CFR Part 257 criteria establish minimum national performance standards necessary to ensure that no reasonable probability of adverse effects on health or the environment will result from solid waste disposal facilities or practices.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? All solid waste sites or facilities are required to comply with the Clean Water Act. Therefore, the addition of surface water monitoring at construction/demolition and residual landfills does not impose stricter requirements or additional or different responsibilities or requirements than those required by the federal mandate. The existing criteria in 40 CFR Part 257 require that a facility not contaminate an underground drinking water source beyond the waste boundary. Contamination means the introduction of a substance that would cause an exceedence of an MCL for 10 inorganic chemicals, 4 chlorinated hydrocarbons or 2 chlorophenoxys or exceedence of background levels of any of these constituents when background concentrations already exceed an MCL. The existing 40 CFR Part 257 does not specifically require facilities to monitor beneath their units or to implement corrective action when groundwater contamination has occurred. The

proposed criteria in 40 CFR Part 258 completely replace existing criteria and require new and existing municipal solid waste facilities to install groundwater monitoring systems and use methods of statistical analysis to detect the presence of hazardous constituents. It also proposes a 3 phased monitoring program and a corrective action program.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Corrective action is currently required by statute (KRS Chapter 224). This proposed regulation sets the standards for corrective action.

NATURAL RESOURCES & ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 48:310. Financial requirements and bonds.

RELATES TO: KRS 224.005 through 224.110, 224.830 through 224.889, 224.994
STATUTORY AUTHORITY: KRS Chapter 13A, 224.033, 224.842, 224.846
NECESSITY AND FUNCTION: KRS Chapter 224 requires the cabinet to adopt rules and regulations for the managing, processing, or disposal of wastes. KRS 224.842 requires that persons engaging in the management, processing and disposal of waste obtain a permit. KRS 224.846 requires nonpublic permit applicants to post bonds. This chapter establishes the minimum technical standards for solid waste sites or facilities. This regulation sets forth the financial requirements for closure, closure care and corrective action.

Section 1. Financial Assurance Criteria. The financial assurance criteria and bond requirements apply to the owner and operator of all solid waste disposal sites or facilities. Any owner or operator which is a city, county, urban-county government, 109 district, taxing district, political subdivision of the Commonwealth, the Commonwealth or any agencies thereof or any entity whose debts and liabilities are the debts and liabilities of the above entities shall only be required to comply with Section 12 of this regulation.

Section 2. Closure Cost Estimate. The owner or operator shall have a detailed written estimate, in current dollars, of the cost of hiring a third party to close the solid waste disposal site or facility in accordance with the closure plan developed to satisfy the closure requirements in Section 4(1) of 401 KAR 48:060, Section (15) of 401 KAR 48:070, Section 4 of 401 KAR 48:170, Section 5 of 401 KAR 48:200 and KRS 224.846.

(1) The estimate shall equal the cost of closing the solid waste disposal site or facility at the point in the active life when the extent and manner of its operation would make closure the most expensive. For contained landfills, the cost estimate mandated by KRS 224.846 shall be at least $25,000 per acre using 1990 as the baseline year: for construction/demolition debris landfills the cost estimate should be at least $10,000 per acre. The cabinet shall adjust the figure for inflation and other factors each year. For other solid waste sites or facilities the owner or operator shall base the cost estimate on the following elements:

(a) Design;
(b) Site grading and drainage;
(c) Hauling and placing of each element of the approved cap;
(d) Final grading and drainage of the cap;
(e) Revegetation of the cap;
(f) Quality control and construction certification; and
(g) Commonwealth oversight and administration:

1. If total cost of paragraphs (a) through (f) of this subsection is under $100,000, an additional cost of fifty (50) percent shall be added;
2. If total cost of paragraphs (a) through (f) of this subsection is between $100,000 and $1,000,000, an additional cost of thirty (30) percent shall be added;
3. If total cost of paragraphs (a) through (f) of this subsection is $1,000,000 - $5,000,000, an additional cost of twenty (20) percent shall be added; or
4. If total cost of paragraphs (a) through (f) of this subsection is over $5,000,000 an additional cost of fifteen (15) percent shall be added.

(2) The owner or operator shall increase the closure cost estimate and the amount of financial assurance provided under Section 5 of this regulation if changes to the closure plan or solid waste disposal site or facility conditions increase the maximum cost of closure at any time during the active life.

(3) The owner or operator may request a reduction in the closure cost estimate and the amount of financial assurance provided under Section 5 of this regulation if he can demonstrate that the cost estimate exceeds the maximum cost of closure at any time over the life of the solid waste disposal site or facility.

(4) The owner or operator shall keep a copy of the latest closure cost estimate at the solid waste disposal site or facility until the owner or operator has been notified by the cabinet that he has been released from closure financial assurance requirements under Section 5 of this regulation.

Section 3. Closure Care Cost Estimate. (1) The owner or operator shall have a detailed written estimate, in current dollars, of the cost of hiring a third party to conduct each phase of closure care monitoring and maintenance of the solid waste landfill in accordance with the closure care plan developed to satisfy the closure care requirements of Section 3 of 401 KAR 48:060; Section 13 of 401 KAR 48:090; and Section 3 of 401 KAR 48:170. The closure care cost estimate for each phase of closure care used to demonstrate financial assurance in Section 6 of this regulation is calculated by multiplying the annual cost estimate for each phase of closure care by the number of years of closure care required. For contained landfills, the closure care estimate mandated by KRS 224.846 shall be a minimum of $10,000 per year using 1990 as the baseline year.

(2) The cost estimate for each phase of closure care shall be based on the most expensive costs of closure care during that phase.

(3) The owner or operator shall increase the

amount of the closure care cost estimate and the amount of financial assurance provided under Section 6 of this regulation if changes in the closure care plan or facility conditions increase the maximum costs of closure care.

(4) The owner or operator may request a reduction in the closure cost estimate and the amount of financial assurance provided under Section 6 of this regulation if he can demonstrate to the satisfaction of the cabinet that the cost estimate exceeds the maximum costs of closure care remaining over the closure care period.

(5) The owner or operator shall keep a copy of the latest closure care cost estimate at the facility until he has been notified by the cabinet that he has been released from closure care financial assurance requirements for the entire facility under Section 6 of this regulation.

Section 4. Financial Mechanisms. The mechanisms used to demonstrate financial assurance under this regulation shall ensure that the funds necessary to meet the costs of closure and closure care shall be available in a timely manner whenever they are needed. The owner or operator shall use the bond specified in Sections 7, 8, 9 and 10 of this regulation, which satisfies the following criteria:

(1) The financial assurance mechanism shall ensure that the amount of funds is sufficient to cover the costs of closure and closure care;

(2) The financial assurance mechanisms shall ensure that funds shall be available in a timely fashion;

(3) The financial assurance mechanisms shall guarantee the availability of the required amount of coverage from the effective date of these requirements or prior to the initial receipt of solid waste, whichever is later, until the owner or operator establishes an alternative financial assurance mechanism or is released from the financial assurance requirements under Sections 5, 6, 7 and 11 of this regulation.

Section 5. Closure Financial Assurance. The owner or operator of each solid waste landfill or landfarm shall establish, in accordance with Section 4 of this regulation, financial assurance for closure of the facility, in an amount equal to the most recent closure cost estimate prepared in accordance with Section 2 of this regulation. The owner or operator shall provide continuous coverage for closure until released from financial assurance requirements. The owner or operator may be released from financial assurance requirements for closure after a site visit by a cabinet representative and approval by the cabinet. For contained landfills, the owner or operator shall submit the certification that closure has been completed in accordance with the approved closure plan. Following receipt of the closure certification or completion of the closure inspection, the cabinet shall:

(1) Notify the owner or operator in writing that he is no longer required to maintain financial assurance for closure; or

(2) Provide the owner or operator with a detailed written statement of any reason to believe that closure has not been conducted in accordance with the approved closure plan.

Section 6. Closure Care Financial Assurance. The owner or operator of each solid waste landfill shall establish, in a manner consistent with Section 4 of this regulation, financial assurance for the costs of each phase of closure care as required under Section 3 of 401 KAR 48:060, Section 13 of 401 KAR 48:090, and Section 3 of 401 KAR 48:170 in an amount equal to the sum of the most recent cost estimates for each phase of closure care, prepared in accordance with Section 3 of this regulation. The owner or operator shall provide continuous coverage for closure care until released from financial assurance requirements for closure care by the cabinet. The owner or operator of a contained landfill may be released from financial assurance requirements for closure care requirements after the cabinet has received a certification that the two (2) phases of the closure care period have been completed in accordance with the approved plan as required under Section 13 of 401 KAR 48:090. Following receipt of the closure care certification, the cabinet shall:

(1) Notify the owner or operator in writing that he is no longer required to maintain financial assurance for closure care; or

(2) Notify the owner or operator with a detailed written statement of any reason to believe that closure care has not been conducted in accordance with the approved closure care plan.

Section 7. Performance Bond. Before the cabinet shall issue a permit, the owner or operator of a solid waste disposal site or facility that is required to post a bond or other security pursuant to KRS 224.846 shall complete the performance bond in a manner approved by the cabinet. To satisfy the financial requirement, the owner or operator shall submit a performance bond (see Section 8 and Appendix A of this regulation) and one (1) of the three (3) following:

(1) Surety bond as specified in Section 8 and Appendix A of this regulation;

(2) Letter of credit as specified in Section 9 and Appendix B of this regulation; or

(3) Escrow agreement as specified in Section 10 and Appendix C of this regulation.

Section 8. Wording of the Performance Bond. A performance bond guaranteeing performance of closure or closure care shall be executed on a form provided by the cabinet. The surety bond form is a part of the performance bond form. The surety bond portion of the performance bond shall be completed only if a surety bond is being used; otherwise the surety bond portion of the performance bond shall be left blank. The performance bond form shall be as contained in Appendix A of this regulation.

Section 9. Wording of the Instrument for a Letter of Credit. A letter of credit, as allowed by Section 4 of this regulation, shall be on a form provided by the cabinet. The letter of credit form shall be as contained in Appendix B of this regulation.

Section 10. Wording of the Escrow Agreement. A solid waste facility escrow agreement, as allowed in Section 4 of this regulation, shall be executed on a form provided by the cabinet. The escrow agreement form shall be as contained

in Appendix C of this regulation. If a certificate of deposit is used in conjunction with the escrow agreement, it shall be made payable to the financial institution as the escrow agent.

Section 11. Release of Bonds. (1) Bonds posted to assure proper closure of a site shall be released two (2) years after the date that the cabinet determines the final cover has been constructed and revegetated with permanent vegetation. The cabinet may withhold that amount of bond necessary to correct deficiencies in the landfill or its closure system.

(2) Bonds posted for financial assurance for closure care activities shall be released thirty (30) years following the date that the cabinet determines the final cover has been constructed and revegetated with permanent vegetation, unless the cabinet has information showing that the landfill is not in compliance with any provision of KRS Chapter 224 or regulations appropriate for the site or the required closure care period has been extended as a result of corrective action pursuant to 401 KAR 48:300.

(3) Bonds posted to assure performance and closure of landfarming facilities shall be released when the applicant demonstrates to the cabinet's satisfaction that the site has been closed and is in compliance with 401 KAR 47:030, 401 KAR 48:300 and KRS Chapter 224.

Section 12. Financial Assurance for Publicly Owned Facilities. The owner or operator of a publicly owned facility shall provide a budget for the permitting, construction, operation, closure and closure care of the facility. The budget shall be revised and submitted annually. When elements of the facility's permitting, construction, operation, closure or closure care are to be accomplished by contract or agreement, a copy of the contract or agreement shall be submitted to the cabinet.

APPENDIX A TO 401 KAR 48:310
COMMONWEALTH OF KENTUCKY
NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
DEPARTMENT FOR ENVIRONMENTAL PROTECTION
DIVISION OF WASTE MANAGEMENT
18 REILLY ROAD
FRANKFORT, KY 40601
PERFORMANCE BOND

Application Number:_____
Existing Permit Number:_____
Type of Bond:
____ Cash Bond
____ Surety Bond (#_____)
____ Certificate of Deposit (#_____)
____ Letter of Credit (#_____)

KNOW ALL PERSONS BY THESE PRESENTS, that the undersigned, _____, as Principal, and _____, as Surety, is/are held and firmly bound unto the Natural Resources and Environmental Protection Cabinet in the penal sum of _____ dollars ($_____), _____ which sum is herewith deposited with the Natural Resources and Environmental Protection Cabinet; ____ for payment of which sum is to be well and truly made: _____ which sum is herewith deposited with the Natural Resources and Environmental Protection Cabinet, by and through its Escrow Agent, _____ as a grantee that the provisions of the permit issued pursuant to Application Number _____, all applicable laws, rules, and regulations will be observed and hereby bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents. This bond is effective upon receipt by the Division of Waste Management (hereinafter Division).

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, that, whereas, the above bound Principal, pursuant to the provisions of KRS Chapter 224 and 401 KAR Chapters 47 and 48 did file with the Division, an application for a permit to construct and/or operate a solid waste site or facility in the Commonwealth of Kentucky; that in said application the Principal identified the area to be permitted as _____ acres, located in _____ County, at or near the community of _____: and whereas the above described area will be affected by the facility during the life of the permit and until the Principal has completed proper closure and closure care; and corrective action, if required, and Cabinet, or, in the case of contained landfills, a professional engineer and Cabinet, has certified the same. Furthermore, it is understood that the obligation under this bond extends to environmental degradation occurring off the permitted area but proximately resulting from the construction, operation or closure of the solid waste site or facility.

Now, if said _____, as Principal, shall faithfully perform all the requirements of the above designated application, the permit issued pursuant thereto and the applicable laws, rules, and regulations, and the terms of this bond, then this obligation shall be released; otherwise, it is agreed that said penal sum shall be paid to the Commonwealth of Kentucky, Natural Resources and Environmental Protection Cabinet, upon receipt of an Order of the Cabinet.

PRINCIPAL:_____ BY:_____
OFFICIAL POSITION:_____DATE:_____
Subscribed and sworn to before me by _____ _____ this the _____ day of _____, 19____.

_____
Notary Public, State-at-Large
My commission expires the ____ day of _____, 19____.

COMPLETE FOR SURETY BOND:
SURETY:
ADDRESS:
LOCAL AGENCY ISSUING BOND:
ADDRESS:
BY:
OFFICIAL POSITION:
SIGNATURE:
DATE:
NOTE: The person who signs for a surety company shall file with the bond a copy of the Power of Attorney showing authority to sign. All bonds executed by an out-of-state bonding agent shall be countersigned by a resident Kentucky agent.
COUNTERSIGNED
BY:
AGENT FOR:
ADDRESS:

APPENDIX B TO 401 KAR 48:310
IRREVOCABLE LETTER OF CREDIT

_____
(financial institution)

COMMONWEALTH OF KENTUCKY
Natural Resources and
Environmental Protection Cabinet
Department for Environmental Protection
Division of Waste Management
18 Reilly Road
Frankfort, Kentucky 40601

Date:_____
IRREVOCABLE LETTER OF CREDIT NO:_____

Gentlemen:

We hereby open our irrevocable letter of credit in your favor for the account of _____ _____ for a sum or sums not exceeding a total of _____ dollars ($_____) available by your draft(s) on us at sight when accompanied by a Natural Resources and Environmental Protection Cabinet Order of Forfeiture.

It is a condition of this Letter of Credit that it will be automatically extended for additional periods of up to one (1) year from the then relevant expiry date unless thirty (30) days prior to that relevant expiry date, we notify you that we elect not to extend this Letter of Credit whereupon you may elect either to obtain cash collateral by drawing your on-sight draft on us for an amount not to exceed the unused balance of this Letter of Credit, or to let the Letter of Credit expire. For the purposes of this credit, our notice not to extend shall mean:

1. That we send our notification to you at the above-listed address by registered mail (return receipt requested) dated not less than thirty (30) days prior to expiration; and

2. That, in the event, prior to fifteen (15) days before the then relevant expiry date, we have not received either your draft or your written notice that you do not intend to draw from your draft on us, we will hand deliver our notification to obtain a receipt from: Director, Division of Waste Management, Natural Resources and Environmental Protection Cabinet, or that official's designated representative, not less than five (5) days prior to the then relevant expiry date. In the event we shall have failed to notify you as described above, this Letter of Credit shall be automatically extended for a period of one (1) year; and

3. That, in the event you draw your draft upon us in response to our notice not to extend, such draft need not be accompanied by an Order of Forfeiture.

Drafts must be negotiated not later than _____. All drafts drawn under this credit shall state that they are "drawn under _____, dated _____, associated with permit number.

This Letter of Credit is subject to the Uniform Commercial Code of the Commonwealth of Kentucky. Jurisdiction for any litigation concerning this Letter of Credit shall be in Franklin Circuit Court, Commonwealth of Kentucky.

In the event we become unable to fulfill our obligations under the Letter of Credit for any reason, notice shall be given within five (5) days to the Permittee and Director, Division of Waste Management, at the address indicated in this Letter of Credit.

We hereby agree with the drawers, endorsers and bona fide holders of drafts drawn under and in compliance with the terms of this credit that such drafts will be duly honored on due presentation to the drawee.

Unless otherwise expressly stated, this Letter of Credit is subject to the "Uniform Customs and Practice for Documentary Credits (1983 Revision) International Chamber of Commerce, Publication 400."

BY:_____
Authorized Signer

_____
Title

APPENDIX C TO 401 KAR 48:310
COMMONWEALTH OF KENTUCKY
NATURAL RESOURCES AND ENVIRONMENTAL
PROTECTION CABINET
DEPARTMENT FOR ENVIRONMENTAL PROTECTION
DIVISION OF WASTE MANAGEMENT
18 REILLY ROAD
FRANKFORT, KY 40601
ESCROW AGREEMENT

THIS AGREEMENT, made, executed, and delivered this the _____ day of _____, 19____, by and between _____, as Applicant, and _____, and the Kentucky Natural Resources and Environmental Protection Cabinet (hereinafter Cabinet).

WITNESSETH:

WHEREAS, Applicant desires to obtain a permit to construct and/or operate a solid waste site or facility in the Commonwealth of Kentucky; and

WHEREAS, the laws of the Commonwealth require that a bond be posted to insure proper closure, closure care of the facility and if required, corrective action to guarantee performance of the requirements in KRS Chapter 224 and the regulations promulgated pursuant thereto, and

WHEREAS, the Applicant desires to meet the bonding requirements for constructing and/or operating a solid waste site or facility in the Commonwealth of Kentucky by executing such bond and posting surety in the sum of _____ dollars ($_____) with the Cabinet to be held by Escrow Agent, which sum is hereby acknowledged by the Cabinet to be sufficient and acceptable for the permit application number ___ _____, relating to _____ acres located at _____ in _____ County, Kentucky; and

WHEREAS, such sum shall be placed in the safe custody of the Escrow Agent and the Agent is directed to purchase certificates of deposit of the _____, which certificates of deposit are hereinafter referred to as The Certificates, and are more fully described as follows, to wit:

CERTIFICATE NO. DATE OF ISSUANCE PRINCIPAL AMT.

AND WHEREAS, this Agreement is a supplement to the bond filed by the Applicant with permit application number _____ for a permit to construct and/or operate a solid waste site or facility.

NOW, THEREFORE, in consideration of the premises set forth herein, the parties hereto mutually agree as follows:

1. The Escrow Agent hereby acknowledges receipt of The Certificates above listed, to be safely and securely kept for the stated purposes of this Agreement and subject to the terms and conditions herein, and hereby binds itself to perform completely under the terms of this Agreement and to dispose of The Certificates or the proceeds therefrom only as provided herein. The Escrow Agent further agrees to exercise due care in the safekeeping and delivery of The Certificates;

2. The parties agree The Certificates or any subsequent Certificates are and shall be made payable in favor of the Escrow Agent only and the parties further agree that until such time as the Cabinet orders that the bond for the permit application be forfeited or until such time as the bond is released, all interest accruing on The Certificates shall be disposed of in accordance with paragraphs 4 and 5 of this Agreement;

3. The parties agree that the Escrow Agent is hereby authorized and directed to insure that The Certificates remain in full force during the term of this Agreement and the Escrow Agent may, upon notice to all parties, and upon the maturity of The Certificates, issue new Certificates of face value equal to the outstanding amount of the bond. In the event of such issuance, the new Certificates shall replace The Certificates herein for all purposes and shall be subject to the conditions of this Agreement;

4. Any interest accruing on The Certificates shall be held by the Escrow Agent until such time as the bond has been released or forfeited or The Certificates have matured and been replaced by new Certificates. No interest shall be paid to the Applicant on any Certificate until such time as the Certificate matures or a full release has been obtained from the Cabinet or until the bond has been forfeited and any penalty resulting from the cashing of the Certificate has been satisfied;

5. In the event of forfeiture of the performance bond herein and upon the Cabinet's written notice of such forfeiture to the Escrow Agent, the Escrow Agent shall promptly cash The Certificates and forward to the Cabinet a Cashier's Check in the outstanding amount of the bond, pay any penalties which result from the cashing of The Certificates from the interest accrued thereon, and remit any remaining interest and principal to the Applicant;

6. The parties agree that neither the Escrow Agent nor the Cabinet shall be liable for any loss of interest which may result to the Applicant as a result of an Order of Forfeiture;

7. The Escrow Agent shall not be liable for inquiring whether there has been performance by the Applicant or to see the application of any monies paid on the instruction of the Cabinet and in such matters the Escrow Agent may rely upon the instructions of the Cabinet executed by the Secretary of the Cabinet, his designee, or his successor or the successor agency as provided by law. The Escrow Agent need not verify the apparent authority of an agent of the Cabinet in carrying out the Cabinet's instructions. Nothing herein shall prevent the Commonwealth from designating a person authorized to act for it in any other lawful manner;

8. That for value received the Applicant does hereby assign, transfer, and set over to the Commonwealth of Kentucky all right, title, and interest which the Applicant may have in The Certificates. The parties agree that The Certificates are being held solely for the benefit of the Commonwealth of Kentucky and that the Applicant has relinquished all right, title, and interest to The Certificates as provided herein. The Applicant may not pledge or encumber in any manner The Certificates or any renewal certificates, or the interest due thereon, so long as the same are subject to the conditions of the bond herein;

9. The Cabinet agrees that upon completion of proper closure and postclosure, or corrective action of or for the solid waste site or facility and upon the Cabinet's inspection and certification of same and in the case of contained landfills, upon certification by a professional engineer, the Cabinet shall release the bond herein and promptly notify the Escrow Agent and the Applicant of such release.

10. It is agreed, as between the parties, that in the event the Escrow Agent closes or goes into receivership, any Federal Deposit Insurance Corporation, Federal Savings and Loan Insurance Corporation, or National Credit Union Administration insurance proceeds paid on, to, or as a result of The Certificates, shall first be applied to cover The Certificates;

11. The parties agree that the Escrow Agent shall be the Cabinet's agent for holding The Certificates for the purpose of perfecting the Cabinet's security interest in those Certificates under KRS Chapter 355.

12. This agreement shall be binding upon the successors and assigns of the respective parties; and

13. Upon receipt by the Escrow Agent of written notification by the Cabinet of the forfeiture or the release of the bond herein, and disbursement pursuant to this agreement by the Escrow Agent of written notification by the Cabinet of the forfeiture or the release of the bond herein, and disbursement pursuant to this agreement by the Escrow Agent of The Certificates or the proceeds therefrom and any interest accrued thereon, the Escrow Agent shall be discharged of any and all duties and liabilities arising out of or as a result of this Agreement.

SIGNED, SEALED, AND DELIVERED, the day and date first above written by the appropriately authorized officers.

APPLICANT:
BY:
TITLE:
ESCROW AGENT:
BY:
TITLE:
NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
BY:
TITLE:

FRANK DICKERSON, Commissioner
CARL H. BRADLEY, Secretary

APPROVED BY AGENCY: January 9, 1990
FILED WITH LRC: January 15, 1990 at 9 a.m.

PUBLIC HEARING: A public hearing to receive comments on this proposed regulation will be conducted February 22, 1990 at 10 a.m. (EDT), in the first floor auditorium of the New State Office Building, High and Clinton Streets, Frankfort, Kentucky. Persons interested in attending this public hearing shall notify in

writing at least five days prior to the hearing: David W. Morgan, Division of Waste Management, Frankfort Office Park, 18 Reilly Road, Frankfort, Kentucky 40601. Persons wishing to submit written comments without attending the hearing may do so, if the written comments are received in the Frankfort office of the Department for Environmental Protection by 4:30 p.m.(EDT) on February 22, 1990.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Susan C. Bush, Director

(1) Type and number of entities affected: 77 solid waste disposal sites are expected to be affected by this rule.

(a) Direct and indirect costs or savings to those affected: The bond expense will be increased as the bond requirements are applied through the implementation of these proposed rules. The new closure standards will take effect in 1992. The bonding then will increase from $14 million dollars statewide today to approximately $65 million dollars in 1992.

1. First year: At a cost for bonding of 2%, the first year cost is that of the present bonding required or $280,000 per year bonding requirements for all facilities.

2. Continuing costs or savings: The cost for bonding a typical landfill is expected to increase from approximately $500,000 to $1,000,000 for 40 acres of fill area. The annual service fee for this bond is $20,000 for a site that can serve 50,000 people. The cost to service $65 million is $1.3 million per year.

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: The owner or operator must file the cost estimate and bond upon obtaining the operating permit and renewals. This requirement currently exists, so the additional paperwork would be minimal.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year:The cost estimates and bonds would be reviewed as a part of the permitting process as is currently required. The agency projects that one additional staff person is needed to manage the bonds. currently the division holds over $14,000,000 in bonds for solid waste permits.

2. Continuing costs or savings: The staff person added in the first year will be required for the continuation of the program.

3. Additional factors increasing or decreasing costs: As with the permitting process, the number of applications and the size of the sites affect the cost of review.

(b) Reporting and paperwork requirements: This proposed regulation contains the forms required. These forms have been in use based on the cabinet's experience with the financial requirements of KRS 224.846.

(3) Assessment of anticipated effect on state and local revenues: Effective implementation of this regulation will avoid possible state general fund expenditures to close solid waste sites that have insufficient bonds. Currently, there are a number of sites that have been abandoned without adequate bonds. There will be no effect on local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) Require financial assurance for corrective action to decontaminate groundwater once polluted.

Alternative: 1. Less stringent: The less stringent requirement of no bond was chosen.

2. More stringent: The proposed federal rules require a bond to cover corrective action. However, once groundwater contamination is discovered, the bonding company or financial institution may not cover the large clean-up costs. The agency has elected to delay implementation of this suggested requirement.

3. Present proposal: The present proposal improves the current methods and terms for bonds to assure solid waste sites are closed and the state is not at significant financial risk.

(b) Schedule for closure and closure care cost.

Alternatives: 1. Less stringent: The cabinet could eliminate the schedule and review it with the permit application as is currently done. Our experience has shown the present procedure to involve time consuming negotiation.

2. More stringent: The cabinet could require submittal of the bond for the schedule amount without a review opportunity.

3. Present proposal: The schedule of costs is a beginning point for computing closure and closure care costs.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping or duplication: The exemption for federal agencies conflict with KRS 224.846.

(a) Necessity of proposed regulation if in conflict: Proposed federal solid waste regulations exempt federal agencies from bond requirements.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: The division will suggest statutory revisions to the general assembly as appropriate.

(6) Any additional information or comments:

TIERING: Was tiering applied? Yes. Bond costs are tailored to the cost to close landfills and a phased release is also provided. The regulations of 401 KAR Chapters 47 and 48 use multiple tiering systems. Permit-by-rule in 401 KAR 47:150, and granted permit-by-rule in 401 KAR 47:110 give certain practices and management activities a method of avoiding full permits. Emergency permits and research development and demonstration permits in 401 KAR 47:150 provide permitting mechanisms for certain situations. The three types of solid waste landfills (contained, residual and construction/demolition debris) and the three classes of landfarming provide for a tiering mechanism based on the type and quality of the waste received.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Subtitle D of the Resource Conservation and Recovery Act is the federal waste statute. 40 CFR Part 257 establishes standards for classification of open dumps, and Kentucky has adopted a form of these referenced as the "Environmental Performance Standards."

2. State compliance standards. Under a 1984 amendment to the Resource Conservation and Recovery Act, the U.S. EPA was required to revise their existing solid waste regulations for facilities receiving household hazardous

wastes or hazardous wastes from persons who generate less then 220 pounds per month. The federal law specifies in Section 4010(c) that, at a minimum, the revisions shall include groundwater monitoring to detect contamination, establish criteria for acceptable location of new or existing facilities, and provide for corrective action as appropriate. On August 30, 1988, the federal government proposed revisions to the existing solid waste regulation. If the Administrator of the U.S. EPA determines that a state has not adopted an adequate permit, the EPA may enforce the revised federal criteria at facilities that may receive household hazardous wastes and hazardous wastes from persons who generate less than 220 pounds per month.

3. Minimum or uniform standards contained in the federal mandate. Bonds assuring closure and 30 years closure care for municipal solid waste landfills may be required for all owners or operators except the federal government. Owners and operators, as well as cities, counties and solid waste commissions would be required to post financial assurance. EPA Subtitle D rules also may require bonds for corrective action to decontaminate groundwater.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This regulation would impose different requirements, being less strict on municipalities than is anticipated by the proposed 40 CFR Part 258, since KRS 224.846 currently exempts state governmental units.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The rule shall not require bonds for cities, counties and state governmental units unless KRS 224.846 is revised.

NATURAL RESOURCES & ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 49:060. Application for designation as a solid waste management area.

RELATES TO: KRS 61.874, 109.011, 109.041, 109.115, 109.190, 224.005, 224.830 through 224.888

STATUTORY AUTHORITY: KRS Chapter 13A, 224.033, 224.886, 224.887

NECESSITY AND FUNCTION: KRS 224.887 requires the cabinet to adopt regulations for counties, combinations of counties, cities, and waste management districts to create solid waste management areas for the purpose of planning for solid waste management and recovery activities. KRS 224.888 requires the area plans to be prepared in accordance with regulations promulgated by the cabinet. This chapter establishes the requirements for solid waste planning. This regulation sets forth application criteria that apply to all entities seeking designation as a solid waste management area.

Section 1. Applicability. Each county, urban county government, and waste management district shall prepare, adopt, maintain, update and implement a comprehensive, coordinated area solid waste management plan. The area plan shall contain the items outlined in 401 KAR 49:070 and is a prerequisite component for designation as a solid waste management area. A county may delegate responsibility for preparing an area-wide plan to a city if the city agrees to assume such responsibility. Cities that operate solid waste facilities or services, or contracted with a person to provide such facilities or services on or before July 15, 1984, and which pay a pro rata share of the cost of plan development, may assume joint responsibility with a county for plan development.

Section 2. Steps for Gaining Solid Waste Management Area Designation. This section summarizes those steps, in order of progression, that a county, cities, urban county governments, or waste management districts shall follow to gain designation as a solid waste management area. All counties, cities, urban county governments or waste management districts shall submit the following to the cabinet:

(1) A notification of intent to apply for area designation, in accordance with Section 4 of this regulation, shall be submitted eighteen (18) months prior to the expiration of the existing area plan;

(2) A draft area plan, in accordance with Section 5 of this regulation, shall be submitted no less than nine (9) months prior to expiration of the existing area plan;

(3) A public notice of the draft area plan and the county's intent to apply for area designation, in accordance with Section 6 of this regulation, shall be issued upon approval of the draft area plan by the cabinet. The notice period shall be for a period of no less than thirty (30) days. If requested during the public notice period, a public hearing(s) shall be held by the lead agency for plan development;

(4) A copy of the resolution and ordinance, in accordance with Section 7 of this regulation, formally approving and adopting the draft area plan shall be submitted by each entity that signed the notice of intent to apply for area designation. The draft area plan shall be approved and adopted only after the public comment period expires and any subsequent public hearing(s) are held and input received; and

(5) An application for area designation, in accordance with Section 8 of this regulation, shall be submitted after the draft area plan has been approved and adopted by resolution or ordinance. This application shall be submitted three (3) months prior to expiration of the existing area designation.

Section 3. City Government Roles in Solid Waste Management. No city shall be authorized to prepare an area plan or apply for designation as a solid waste management area unless the county, urban county government or waste management district delegates responsibility for area plan development to the city. Area plans prepared by a city shall address solid waste management problems and activities at both the city and county levels. If a county, urban county government or waste management district fails to apply or reapply as a solid waste management area at the time of expiration, a city may provide solid waste services and shall have all the powers and restrictions set forth for counties in KRS 109.041, 109.056, 109.059, and 109.062.

Section 4. Notification of Intent to Apply for Area Designation. The notification of intent to apply for area designation shall be submitted by an entity desiring designation as a solid waste management area.

(1) Identification of lead agency. Eighteen (18) months prior to the expiration of the plan, a notification of intent to apply for area designation shall be submitted to the cabinet. This shall be done by the lead agency which may be a single county or urban county government, multiple counties, a waste management district or a county in cooperation with a city or cities. The notification of intent to apply for area designation shall be adopted by resolution or ordinance by the fiscal court, boards of directors or, in the case of an urban-county government, the body in which legislative power is vested. One (1) or more cities may be delegated the responsibility for developing a solid waste management area plan or providing solid waste management services where both the city and county agree to such delegation. Regardless of any such delegation, the county shall retain primary responsibility for solid waste management. Upon receipt of a notification of intent to apply for area designation, the cabinet shall transmit copies of the notification to all counties in Kentucky contiguous to the proposed solid waste management area. The notification shall be on a form supplied by the cabinet and shall contain:

(a) Signed statements from each agency responsible for plan development, stating whether the applicant is acting independently, jointly or as a waste management district;

(b) The name of the agency and the designated contact person who shall have primary responsibility for plan development; and

(c) The name and title of a designated contact person from each agency that assumes responsibility for plan development.

(2) Each agency that assumes responsibility for plan development shall conclude a resolution or ordinance adopting the notice of intent to apply for area designation, a copy of which shall be submitted to the cabinet with the intent to apply form.

(3) Dissolving a 109 district. Counties who previously established waste management districts under the provisions of KRS 109.071 or KRS Chapter 65 but do not wish to apply under this entity shall first dissolve the waste management district. In the case of a nontaxing district, this shall be accomplished by ordinance. In the case of a taxing district or a waste management district established by KRS Chapter 65 or KRS 109.071, the district shall be dissolved in accordance with the procedures outlined in KRS 65.170 and 65.176.

(4) Changes to information submitted. A county, city, or waste management district shall notify the cabinet within thirty (30) days of deciding to amend, modify, or dissolve an existing agreement. The cabinet shall transmit copies of the notification to all counties in Kentucky contiguous to the proposed solid waste management area.

Section 5. Preliminary Review and Approval of Area Plan. The fiscal court, urban county council or waste management district or designated agency shall submit a draft area plan to the cabinet no less than nine (9) months prior to the expiration of the area designation. The draft area plan shall be adopted by resolution by each entity that signed the notification of intent to apply for area designation before the area plan is submitted to the cabinet for preliminary review. Upon submittal to the cabinet, a preliminary review shall be conducted to determine the plan's compliance with the Kentucky waste management plan and all applicable laws and regulations, and a determination shall be made within ninety (90) days to approve or deny the draft area plan. Upon finding that the draft area plan is in compliance with all applicable requirements, the cabinet shall issue a written preliminary approval. This preliminary approval may condition final approval of the area plan and designation as a solid waste management area upon corrections or amendments to the draft area plan.

Section 6. Public Notice for Area Plan. (1) Public notice. Upon receipt of preliminary approval of the draft area plan, the fiscal court of each county in the proposed area or, in the case of an urban-county government, the body in which legislative power is vested, shall issue a public notice indicating their intent to apply for designation as a solid waste management area and that the solid waste management area plan is available for public review for a period of thirty (30) days. The fiscal court(s), urban county government or waste management district shall also give notice of this review opportunity to all agencies which signed the application to apply for designation and each city located within the county. This information shall specify the amount of time allowed for their review and comment.

(2) Public hearing. If a public hearing is requested as a result of the public notice, the fiscal court of each county in the proposed area shall hold at least one (1) public hearing prior to adopting or approving the draft plan. The cabinet recommends that each comment received be evaluated and that a written response be prepared. A transcript or a summary of the comments received and the consideration of comments, if prepared, shall be made available to each designated contact person identified in the notification of intent to apply for area designation, if applicable, prior to adoption or approval of the application for designation as a solid waste management area. Copies of the comments and and consideration of comments, if prepared, shall be made available to the public through public libraries, public offices, individual copies, or any similar means, and shall be available to the cabinet upon request.

Section 7. Plan Approval and Adoption. Approval of the draft area plan by the fiscal court or waste management district shall not take place prior to public involvement as stipulated in Section 6 of this regulation. The fiscal court of each county in the proposed area or, in the case of an urban-county government, the body in which the legislative power is vested, as well as any other entities that signed the notice of intent to apply for area designation stipulated in Section 4 of this regulation, shall approve the draft area plan by ordinance or resolution. The ordinance or resolution shall state concurrence with the following:

(1) The objectives set forth in the area plan;

(2) The schedule for implementation of the program including month and year of task initiation and month and year of task completion;
(3) Procedures to obtain financing for the recommended public program through the short-term planning period; and
(4) The duties and responsibilities of all entities identified in the area plan.

Section 8. Application for Designation as a Solid Waste Management Area. (1) Application content. After preliminary approval of the draft plan by the cabinet and adoption of the application and plan by the fiscal court of the county(ies) or in the case of an urban-county government, the body in which legislative power is vested, application shall be made to the cabinet for designation as a solid waste management area. The application shall be on a form provided by the cabinet and shall include:
(a) Name of the proposed area;
(b) Name and address of the primary agency responsible for area plan implementation;
(c) Name, address and telephone number of the individual identified as the contact person for the primary agency;
(d) A list of the members of the fiscal court or board of directors, or, in the case of an urban-county government, the body in which legislative power is vested, and their titles, if appropriate;
(e) Three (3) copies of the area plan prepared in accordance with 401 KAR 49:070;
(f) Copies of the ordinances or resolutions approving the area plan from each entity that signed the notification of intent to apply for area designation;
(g) The agreement or contract establishing the proposed area, if applicable;
(h) A copy of the final public notice required under Section 6 of this regulation; and
(i) A description of the general administrative process to implement the plan which shall include budgeting, enforcement, plan review, public information, management, and operation of the waste management activities or facilities proposed.
(2) Submittal date. The application for designation as a solid waste management area shall be submitted to the cabinet three (3) months prior to the expiration of the area designation.
(3) Copies required. The county shall submit one (1) copy of the application for designation as a solid waste management area and at least three (3) copies of the area plan. In the case of a multicounty waste management district at least one (1) plan shall be submitted for each county in the district plus two (2) additional copies of the area plan. Copies shall be eight and one-half (8 1/2) inches by eleven (11) inches and each page shall be securely bound in a notebook, folder or a similar means designed to keep the pages in order. Pages shall be numbered and the plan shall follow the formatting required in 401 KAR 49:070, Section 2. A title sheet identifying the plan and the lead agency which developed the plan shall be placed at the beginning of the area plan package.

Section 9. Designation as a Solid Waste Management Area. (1) Approval of the application. The cabinet shall review the information submitted pursuant to Section 8 of this regulation to determine whether the application and area plan are consistent with the Kentucky waste management plan and in compliance with all applicable state laws and regulations. If the information is in compliance, the cabinet shall approve the application and notify the lead agency in writing.
(2) Rejection of the application for designation. Rejection of the application shall be in writing and accompanied by a list of deficiencies which, if corrected may justify approval of the application for designation as a solid waste management area.
(3) If the entities of the designated solid waste management area amend, modify, or dissolve the agreement establishing the area, the cabinet shall be notified in writing no later than thirty (30) days after such action. The cabinet shall review the notification of amendment or modification of an agreement and make a written determination as to whether the county, counties, cities or waste management district shall submit a revised area plan. If the cabinet determines that a revised plan shall be submitted, each county or counties from a dissolved solid waste management area shall submit a revised proposed area plan, approved by the fiscal court of the county or counties within the proposed area or, in the case of an urban-county government, the body in which legislative power is vested, within six (6) months of the date of dissolution of the area. Failure to comply with the provisions of this section regarding revision of the area plan shall be grounds for revocation of area designation.

Section 10. Plan Amendments. (1) Amendments and updates shall be made:
(a) If the cabinet determines that the approved plan or any part thereof is inadequate based on new or revised information, conditions or circumstances or the plan is not being implemented according to the schedule in the approved plan; or
(b) If the solid waste management area determines that the approved plan or any part thereof is inadequate based on new or revised information, conditions or circumstances. The revised plan shall be approved by the fiscal court of each county within the area or, in the case of an urban-county government, the body in which legislative power is vested, as well as any entities which signed the notification of intent to apply for area designation stipulated in Section 4 of this regulation and submitted to the cabinet for review and approval.
(2) The solid waste management area shall submit to the cabinet a notice of intent to amend its solid waste plan. The notice shall include a description of the plan amendment and how it will change solid waste management. The cabinet shall advise the applicant of the acceptability of the proposed change. If the change is deemed to significantly impact solid waste management in the area in a manner that will significantly increase the expected cost to individuals for solid waste management or reduce service within the area, the entities that signed the notice of intent to apply for area designation shall:
(a) Approve and adopt the amendments in accordance with Section 7 of this regulation; and
(b) Submit to the cabinet a request for approval of the amendment including all

information that is required in Section 8(1) of this regulation that has changed as a result of the plan amendment.

(3) The solid waste management area shall publish a notice that summarizes proposed changes to a solid waste management area plan, in accordance with Section 6 of this regulation, once preliminary approval is granted by the cabinet.

Section 11. Implementation. Each county, urban county government or waste management district shall apply for or reapply for designation as a solid waste management area and shall implement the approved solid waste management area plan.

Section 12. Severability. If any section, paragraph, phrase, sentence or clause of this regulation is declared invalid or unconstitutional for any reason, the remainder of this chapter shall not be affected thereby.

Section 13. Repeal. 401 KAR 49:020, entitled Submission of area plan, 401 KAR 49:030, entitled Designation as a solid waste management area, and 401 KAR 49:050, entitled Establishment of fees, are hereby repealed.

FRANK DICKERSON, Commissioner
CARL H. BRADLEY, Secretary
APPROVED BY AGENCY: January 9, 1990
FILED WITH LRC: January 15, 1990 at 9 a.m.

PUBLIC HEARING: A public hearing to receive comments on this proposed regulation will be conducted February 22, 1990 at 10 a.m. (EDT), in the first floor auditorium of the New State Office Building, High and Clinton Streets, Frankfort, Kentucky. Persons interested in attending this public hearing shall notify in writing at least five days prior to the hearing: David W. Morgan, Division of Waste Management, Frankfort Office Park, 18 Reilly Road, Frankfort, Kentucky 40601. Persons wishing to submit written comments without attending the hearing may do so, if the written comments are received in the Frankfort office of the Department for Environmental Protection by 4:30 p.m.(EDT) on February 22, 1990.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Susan C. Bush, Director

(1) Type and number of entities affected: This proposed regulation applies to all counties and urban county governments. Counties may enter into agreements with other counties or cities to form a solid waste management area and to develop a solid waste plan.

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

1. First year: Requirements to apply for designation will require coordination among counties and other entities who will be responsible for solid waste planning. This regulation itself does not involve any expenditures; however, preparation and implementation of the plan will. The proposed regulation is a combination of 401 KAR 49:020 and 49:030. This was done for clarification purposes. There are no new requirements associated with this change.

2. Continuing costs or savings: KRS 224.887 requires the solid waste management area designation and plan to be updated every four years. This will result in additional planning costs every five years. This regulation will not involve any continuing costs or savings due to the fact that the requirements to apply for area designation already exists. The intent behind this regulation is to combine and clarify 401 KAR 49:020 and 49:030 which are being repealed.

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors associated with this regulation that will increase or decrease costs to counties.

(b) Reporting and paperwork requirements: Notice of intent to apply for solid waste management area designation will be required and will involve several hours of coordination among the entities applying for area designation.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The Division of Waste Management will be responsible for providing informational assistance regarding application procedures, documentation required, etc. The Division of Waste Management already has the responsibility to review and monitor for implementation of the county solid waste management area plans and to provide informational and technical assistance with regard to proper waste management. While this regulation does not add new responsibilities, additional staffing will be necessary to review the solid waste plans which will be renewed beginning in 1990 and to address the technical assistance requests received. The cabinet, through its planning process and biennial budget, is requesting six additional staff persons to address the responsibilities given under KRS Chapter 224.

2. Continuing costs or savings: This regulation will not involve any continuing costs or savings to the cabinet other than the staffing needs identified under (2)(a)1.

3. Additional factors increasing or decreasing costs: There are no additional factors associated with this regulation that will increase or decrease costs to the cabinet.

(b) Reporting and paperwork requirements: The cabinet will provide written confirmation of receipt and approval of applications for area designation. However, there are no new requirements to be performed by the cabinet in its ongoing monitoring of plans.

(3) Assessment of anticipated effect on state and local revenues: This proposed regulation is meant to clarify and reorganize two existing regulations and, therefore, involves no new requirements. There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: The process of applying for area designation allows the division to monitor progress and establish communication with responsible entities. KRS 224.887 specifies the minimum requirements for application.

Alternative: 1. Less stringent: There are no new requirements associated with this proposed regulation; therefore, less stringent alternatives were not considered.

2. More stringent: There are no new requirements associated with this proposed regulation; therefore, more stringent alternatives were not considered.

3. Present proposal: This proposed regulation

outlines the procedures for securing designation as a solid waste management area, as well as the process for amending and updating the area plan.

(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 conflicting, overlapping or duplicative.

(a) Necessity of proposed regulation if in conflict: There is no conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no conflict.

(6) Any additional information or comments: This regulation is a clarification and reorganization of current regulations (401 KAR 49:020 and 49:030) and will involve no additional requirements or expenditures on either the state or local level.

TIERING: Was tiering applied? Yes. This proposed regulation applies to a county and urban county governments, cities, combinations of counties and waste management districts.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. The proposed administrative regulation is consistent with the requirements of the federal Resource Conservation and Recovery Act of 1976, as amended.

2. State compliance standards. KRS 224.887 requires the cabinet to promulgate regulations for counties to create solid waste management areas and to require planning for the management and recovery of solid waste. The proposed administrative regulation establishes the minimum standards for solid waste management planning, including detailed procedures for applying for area designation. 401 KAR 49:020 and 49:030 have been combined and clarified in this proposed regulation. There are no new requirements associated with this change.

3. Minimum or uniform standards contained in the federal mandate. The federal mandate contains minimum standards for development and implementation of a state plan and upgrading of open dumps.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This proposed administrative regulation imposes different requirements but is consistent with federal requirements for solid waste planning. Different requirements are for plan development and implementation to be done on a county level and to be consistent with the Kentucky waste management plan, as determined necessary by the cabinet. There are no new requirements associated with this regulation.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Counties and waste management districts are required by KRS 224.887 to develop solid waste management plans and form solid waste management area. Since each county is unique in resources and problems, planning will be tailored to specific problems and implementation will be more efficient.

NATURAL RESOURCES & ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 49:070. Contents of the area plan.

RELATES TO: KRS 224.005 through 224.110, 224.830 through 224.888, 224,994

STATUTORY AUTHORITY: KRS Chapter 13A, 224.033, 224.886, 224.887, 224.888

NECESSITY AND FUNCTION: KRS Chapter 224 requires the cabinet to adopt rules and regulations for the treatment, storage, recycling and disposal of solid wastes. KRS 224.886 grants the cabinet the primary authority to promulgate regulations for coordinating solid waste planning and management activities of waste management districts, counties or any combination thereof. KRS 224.887 requires the cabinet to promulgate regulations for creation of solid waste management areas and for planning for the management and recovery of solid waste. KRS 224.888 requires the area plans to be prepared in accordance with regulations promulgated by the cabinet. This chapter establishes the solid waste planning and management activities requirements. This regulation identifies the contents for area plans.

Section 1. Purpose and Scope of the Solid Waste Management Area Plan. (1) The area plan shall establish an orderly procedure for achieving the objectives of KRS Chapters 109 and 224, meeting the requirements of the solid waste management regulations and demonstrating conformance with the Kentucky waste management plan, as determined necessary by the cabinet. To accomplish the objectives of this subsection, the area plan shall address all solid waste management issues in the proposed area.

(2) In meeting the requirements for resource recovery and recycling, collection, transportation, storage, treatment and disposal activities and facilities, the area plan shall provide for an assessment of the adequacy of existing activities and facilities and the need for new, improved or expanded activities and facilities. It is not intended that detailed engineering design of specific activities or facilities be integrated into the plan.

(3) The area plan shall establish priorities and timetables for action based on a demographic study of the area, the existing level of solid waste management, the solid waste management system deficiencies, the goals and objectives to be accomplished, and the resources and management approaches available to the area. The priorities established shall cover a minimum of twenty (20) years from the date the area plan is submitted to the cabinet for approval in short-term (five (5) years), midterm (five (5) - ten (10) years) and long-term (ten (10) - twenty (20) years) planning periods, and shall contain the level of detail specified in Sections 5 and 8 of this regulation.

(a) The short-term period shall contain an actual schedule of activities to be implemented on an annual basis;

(b) The midterm period shall contain objectives and measures sufficiently detailed to show feasibility; and

(c) The long-term period shall contain objectives and measures which shall be general

and goal-oriented.

(4) The area plan shall document those policy decisions adopted by the solid waste management area in addressing its solid waste management needs as follows:

(a) The area plan shall address existing legal authority for solid waste management within the proposed area, and shall identify modifications or additions to existing legal authority necessary to implement the proposed plan.

(b) The area plan shall include all incorporated and unincorporated areas in each county within the planning area and describe the relationship between the proposed area and those waste management activities currently being implemented by cities within the proposed area. For solid waste management facilities or activities which are currently operated by or under the control of a city within the proposed area, and shall continue to be operated by such, the plan shall describe the city's solid waste management system in a level of detail equal to that which is required by the county under this regulation. The plan may provide that the city shall continue to operate as an integral unit of the solid waste management area.

Section 2. Format of the Area Plan. The specific requirements for the contents of each chapter of the area plan shall be as specified in Sections 3 through 8 of this regulation. Each area plan shall have the organizational structure and chapter headings which are specified in this section.

(1) Title page and table of contents. Each area plan shall have as the firs page a title page which shall contain the name of the solid waste management area and the month and year the area plan was submitted to the cabinet. The second page of the area plan shall be titled: Table of Contents. Each table of contents shall list the chapter number, chapter name and page number on which the chapter begins.

(2) Chapter I. At the beginning of the first chapter, the following chapter heading shall be used: Chapter I - Background Information and Projections. This chapter of the area plan shall contain a general description of the physical, social and economic characteristics of the area. The specific requirements for the content of this chapter are specified in Section 3 of this regulation.

(3) Chapter II. At the beginning of the second chapter, the following chapter heading shall be used: Chapter II - Existing System. This chapter of the area plan shall contain an inventory and description of the existing solid waste management activities and facilities. The specific requirements for this chapter are specified in Section 4 of this regulation.

(4) Chapter III. At the beginning of the third chapter, the following chapter heading shall be used: Chapter III - Goals and Objectives of the Plan. This chapter of the area plan shall specify the area's goals and objectives for properly managing its solid waste. The specific requirements for this chapter are specified in Section 5 of this regulation.

(5) Chapter IV. At the beginning of the fourth chapter, the following chapter heading shall be used: Chapter IV - Deficiencies of the Existing System. This chapter of the area plan shall contain a description of the existing solid waste management system's deficiencies in meeting the objectives of the area. The specific requirements for this chapter are specified in Section 6 of this regulation.

(6) Chapter V. At the beginning of the fifth chapter, the following chapter heading shall be used: Chapter V - Analysis of Alternative Approaches. This chapter of the area plan shall identify all the alternatives which may be employed to achieve the area's goals and objectives and remedy system deficiencies. The specific requirements for this chapter are specified in Section 7 of this regulation.

(7) Chapter VI. At the beginning of the sixth chapter, the following chapter heading shall be used: Chapter VI - Selected Solid Waste Management System. This chapter of the area plan shall outline the selected solid waste management system to be implemented. The specific requirements for this chapter are specified in Section 8 of this regulation.

Section 3. Chapter I - Background Information and Projections. The area plan shall contain a general description of the physical, social, and economic characteristics of the area. The analysis shall include a description of:

(1) The topography of the area, including a map on a scale of at least 1:125,000 identifying all major topographical features;

(2) Current and projected population centers for five (5), ten (10) and twenty (20) years by census division, enumeration district or other subarea approved by the cabinet;

(3) Current and projected centers of waste generation including estimates of residential, commercial, and industrial wastes for five (5), ten (10) and twenty (20) years by census division, enumeration district or other subarea approved by the cabinet;

(4) Estimates of other solid waste streams such as institutional solid wastes, construction and demolition debris, sludges, septic tank pumpings and medical wastes; and

(5) Any portion of a comprehensive land use plan of the county, counties or city(ies), if such a plan exists, as it relates to solid waste management. This analysis shall include any information which outlines siting criteria for solid waste management facilities.

Section 4. Chapter II - Existing System. The area plan shall contain an inventory and description of all existing solid waste management activities and facilities in sufficient detail to assess their adequacy.

(1) Collection and transportation. This information shall include:

(a) A map of the area drawn to a scale of at least 1:125,000 depicting existing subareas to include, if appropriate, the following collection and transportation information in each subarea:

1. Boundaries of the subarea;

2. Collection routes delineated by hauler; and

3. Location and description of greenboxes, convenience centers, transfer stations and ultimate disposal site; and

(b) A narrative describing the existing collection and transportation system in each subarea including, if appropriate:

1. Method of collection, including rates and frequency;

2. Number of households;

3. Level of participation in the collection services;

4. Amounts of residential, commercial,

industrial, and medical waste collected;
5. Capacity of greenboxes, convenience centers, and transfer stations;
6. Mileage from the subarea to the disposal site(s) or transfer station; and
7. Name and address of each governmental agency or private company providing the service of waste transportation.
(2) Disposal. The area plan shall describe each site or facility at which the area's solid waste is being disposed. The description shall include the identity, location, live expectancy, ownership, cost of operating each facility, charges to the users, and a statement of the ability of the site to comply with all applicable laws and regulations. This description shall also identify the counties or states that currently use each disposal site or facility.
(3) Open dumps. The area plan shall identify on a map of a scale of at least 1:125,000 and provide a description of all existing open dumps in the proposed area.
(4) Recycling and resource recovery. The area plan shall provide an inventory of all recycling facilities and activities within the area. This description shall include, at a minimum, the company name and address of private recyclers, types of materials recycled, and the level of public participation. This information should also identify any civic activities which allow the citizens of the area to recycle. This information shall include the name of the organization, the items collected and the frequency of these activities.
(5) Legal authority. The area plan shall identify and include copies of all city and county ordinances, resolutions or regulations and waste management district regulations which relate to any aspect of solid waste management.
(6) Storage. The area plan shall identify those regulations and ordinances which provide for proper, safe and sanitary storage of solid waste prior to collection, processing or disposal.
(7) Public education. The area plan shall identify and describe in detail any local organizations, events, or programs which serve as public education forums on solid waste management issues.
(8) Management system. The area plan shall identify all persons, public agencies, committees, commissions, districts or other institutional organizations which are responsible for implementing any part of the present system and include a description of their general responsibilities, authority and enforcement powers.
(9) Financing mechanisms. The area plan shall include a description of financing for the existing solid waste system, including source and amount of funds received and costs of solid waste systems for collection, transportation, treatment and disposal.

Section 5. Chapter III - Objectives of the Plan. The area plan shall identify the short-term, midterm and long-term solid waste management goals and objectives which shall be given priority for implementation by the proposed area. These shall be consistent with state laws and regulations, based on an analysis of deficiencies in the existing solid waste management activities and facilities, the need for new activities and facilities to handle projected waste volumes, and the ability of existing facilities to comply with all applicable laws and regulations. Highest priority shall be given to activities which:
(1) Improve collection and achieve full participation by all residents of the planning area;
(2) Provide for proper disposal through the twenty (20) year planning period;
(3) Eliminate open dumps; and
(4) Promote and encourage resource recovery and recycling activities in order to reduce the amount of wastes disposed of at landfills and maximize the recovery of reusable resources.

Section 6. Chapter IV - Deficiencies of the Existing System. The area plan shall contain a description of the deficiencies of the existing system in meeting the solid waste management planning objectives of the area and Kentucky waste management plan and applicable laws and regulations.

Section 7. Chapter V - Analysis of Alternative Approaches. The area plan shall identify all alternatives which may be employed to achieve the area's goals and objectives as stated in Section 5 of this regulation. This analysis shall include methods of financing each alternative approach, as well as any institutional arrangements which may be needed to implement each alternative. This analysis shall serve as the basis for the area's selected solid waste management system.

Section 8. Chapter VI - Selected Solid Waste Management System. Based upon the objectives of the area plan and the analysis of alternative approaches, the area plan shall describe the selected solid waste management system to be implemented. The area plan shall contain a detailed description of activities which shall be performed to achieve the goals listed for the short-term planning period. This description shall include a schedule detailing the month and year each task shall be initiated and the month and year each task shall be completed. The selected system for the short-term planning period shall include the following elements:
(1) Collection and transportation.
(a) Documentation of the method by which all residents within the planning area will place their waste in or have their waste transported to a cabinet-approved solid waste management site or facility. For each type of collection service utilized, the area shall demonstrate a method for gauging public participation levels throughout the short-term period, with the goal being full participation by all residents by 1995. Collection practices which may be deemed acceptable by the cabinet are as follows:
1. Door-to-door household collection. Collection service may be provided by the public agency responsible for implementation of the solid waste management area plan or by contract, franchise or permit with the private sector.
2. Direct access to a manned convenience center or transfer facility within the planning area. Residents may transport their waste directly to manned convenience centers or transfer facilities within the boundaries of the planning area which meet the environmental performance standards of 401 KAR 47:030.
(b) A map of the area drawn to a scale of at least 1:125,000 depicting changes, if any, which

shall be made to the existing collection and transportation systems described in Section 4(1)(a) of this regulation to improve participation in the collection and transportation systems; and

(c) A narrative describing the changes, if any, to the existing collection and transportation systems description contained in Section 4(1)(b) of this regulation, to improve participation in the collection and transportation systems;

(2) Disposal. A description of the sites and facilities at which solid wastes shall be disposed.

(a) For all disposal facilities, whether publicly owned or privately owned, the county shall secure a formal agreement with the facility to assure the facility's capacity and willingness to accept the county's waste for at least throughout the short-term planning period. A copy of the agreement shall be included in the plan.

(b) Where existing disposal facilities have the capacity sufficient to accommodate projected waste loads through the short-term planning period and are in compliance with all applicable laws and regulations, the plan shall reference the description of the existing disposal facilities in Chapter II of the area plan which are required by Section 4(2) of this regulation.

(c) The area plan shall identify any existing solid waste management facilities which shall be phased out in the short-term planning period.

(d) Where an existing disposal facility is assessed as having a life expectancy less than five (5) years, the area plan shall outline a siting procedure and development program which shall be undertaken during the first year of the short-term planning period to provide for the orderly location, development and financing of new or expanded solid waste disposal facilities. This procedure shall demonstrate how all residents within the planning area shall within the short-term planning period have the ability to dispose of their waste in an environmentally and legally sound manner. When the life expectancy of the existing disposal facility is reduced to less than two (2) years, a formal written agreement which guarantees a five (5) year disposal capacity shall be obtained from another permitted disposal facility.

(3) Open dumps and littering. The area plan shall specify planned programs to be implemented for the control and cleanup of open dumps on public and private property. Programs shall include public education, adoption and enforcement of ordinances, and a detailed description and schedule of cleanup activities. The program description shall identify all agencies responsible for implementing the above referenced activities.

(4) Recycling and resource recovery. The area plan shall document how all residents within the planning area shall have access to and be encouraged to participate in resource recovery and recycling activities. This information shall include:

(a) Any new or expanded activities or facilities to be undertaken by the area or the private sector, if available;

(b) Estimated per ton costs associated with collection and disposal activities as compared to per ton costs of alternative resource recovery activities;

(c) The public education and publicity strategies to be implemented to involve the maximum number of people; and

(d) Specific yearly goals for public participation in recycling and resource recovery activities.

(5) Ordinances. The area plan shall describe and identify any modifications or additions to local laws and regulations necessary to implement the area plan. This shall include evaluating legal authority for conformance with the Kentucky solid waste management regulations and identifying how local laws shall be enforced. The area plan shall also contain a description of the required permitting activities of the area by type of facility. The description shall include the procedures and criteria which shall be used by local government to review and act on the expansion of existing facilities or the siting of new solid waste sites or facilities.

(6) Storage. The area plan shall identify any modifications or additions to local ordinances and regulations which provide for proper, safe and sanitary storage of solid waste on the sources' property while awaiting collection, processing or disposal. The area plan should include criteria for safe and effective waste storage.

(7) Public education. The area plan shall describe specific activities to be implemented to promote proper solid waste management. These activities shall involve all sectors of the public including business, government, civic, media, schools and private citizens. These activities may include cleanup campaigns, school curricula, periodic news articles, and special events.

(8) Management system. The plan shall identify all persons, public agencies, committees, commissions, districts or other institutional organizations which shall be responsible for implementing any part of the area plan. One (1) person shall be identified as the lead person and contact for implementation of the area plan. A description of the general responsibilities, authority and enforcement procedures for the person identified shall be included. The plan shall also describe the specific services that shall be provided for area residents.

(9) Financing. The area plan shall include a detailed description of the short-term, midterm and long-term costs to be financed by the public sector, including capital construction and operating costs. The plan shall indicate the means by which implementation shall be financed. The information shall include an estimate of the costs per person for the selected system for the short-term, midterm and long-term periods.

Section 9. Severability. If any section, paragraph, phrase, sentence or clause of this regulation is declared invalid or unconstitutional for any reason, the remainder of this regulation shall not be affected thereby.

FRANK DICKERSON, Commissioner
CARL H. BRADLEY, Secretary
APPROVED BY AGENCY: January 9, 1990
FILED WITH LRC: January 15, 1990 at 9 a.m.

PUBLIC HEARING: A public hearing to receive comments on this proposed regulation will be conducted February 22, 1990 at 10 a.m. (EDT), in the first floor auditorium of the New State Office Building, High and Clinton Streets, Frankfort, Kentucky. Persons interested in

attending this public hearing shall notify in writing at least five days prior to the hearing: David W. Morgan, Division of Waste Management, Frankfort Office Park, 18 Reilly Road, Frankfort, Kentucky 40601. Persons wishing to submit written comments without attending the hearing may do so, if the written comments are received in the Frankfort office of the Department for Environmental Protection by 4:30 p.m.(EDT) on February 22, 1990.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Susan C. Bush, Director

(1) Type and number of entities affected: This regulation will affect all counties and urban-county governments in the Commonwealth. Counties may enter into agreements with other counties or cities to form a solid waste management area or district and to develop a single, multicounty (regional) or county/city solid waste management plan.

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

1. First year: The cost of plan preparation will vary for each county depending upon: accuracy and thoroughness of baseline data from the initial plan; current documentation of plan implementation; the level of in-house capability to prepare plans; and whether the county elects to develop a single, multicounty (regional) or city/county plan. It is not the intention of this regulation to develop detailed engineering or feasibility studies. However, a great deal of documentation is required and a substantial commitment of in-house staff time will be necessary for determining goals and objectives of the plan. In many cases, consultants or outside expertise will be required. The estimated costs for plan preparation (which do not include costs for implementation or operation of the solid waste system) will range from $10,000 to $25,000 per county. These estimates are abased upon the actual costs incurred by counties in developing their initial solid waste management plans (which ranged from $5,000 to $20,000). The attached chart shows a breakdown of costs per task for developing a plan.

2. Continuing costs or savings: Costs for preparing the plans will be incurred every five years. For multicounty areas which elect to centralize their solid waste management efforts, a savings should occur due to the elimination of duplicate services. The indirect savings associated with implementation of the plans are difficult to estimate. One of the primary purposes of the area plans will be to present a schedule showing tasks and timetables for accomplishing better solid waste management. It therefore follows that a cabinet-approved plan will guarantee that solid waste is managed properly - from collection to disposal. If solid waste is properly managed, less waste will be indiscriminately or illegally dumped. These dumps currently cost the Commonwealth $3,000,000 annually in cleanups, are detrimental to air and water resources, jeopardize public health, and decrease the overall quality of life, thus impacting economic development. Hence, the long-term benefits derived from a cleaner, healthier environment are great, albeit intangible, in terms of savings to the citizens of the Commonwealth.

3. Additional factors increasing or decreasing costs (note any effects upon competition): It is projected that in most counties new opportunities will be created through franchises or contracts with the private sector for the purpose of managing solid waste, recycling efforts, collection and disposal. The cabinet is proposing regulations to include new design and operational requirements for sanitary landfills. These changes will result in additional disposal costs at sanitary landfills and require planning efforts to be such that all mechanisms to reduce the waste stream are being implemented. It is anticipated that some landfills will elect to close rather than upgrade to meet the proposed federal and state requirements. This will result in counties needing to locate another permitted disposal site.

(b) Reporting and paperwork requirements: Counties will be required to submit a draft plan for cabinet review and three copies of the final plan.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Implementation of these regulations will necessitate that the cabinet initiate an active assistance program to the counties to: communicate the purpose of solid waste planning; provide available background data needed in plan preparations; provide direct technical assistance on an as-needed basis; and coordinate with other state, federal and regional agencies to provide assistance to local governments developing solid waste management area plans. Draft plans will be reviewed by the cabinet prior to approval. Major costs to the cabinet will be for manpower, travel, printing and supplies. Total estimated costs to the cabinet will be approximately $203,000, which will include six work years ($198,000) instate travel cost ($3,000) and printing costs of $2,000. Costs are based on the fact that in most cases single county plans will be developed.

2. Continuing costs or savings: As plans are developed, the cabinet will continue to work with the counties as they initiate implementation. Direct costs to the cabinet will be reduced once the plans are approved and the demand for technical assistance diminishes. Plan updates will be submitted by the counties every four years as required by KRS 224.887, when the costs identified under (2)(a)1 will reoccur.

3. Additional factors increasing or decreasing costs: The cabinet, through its planning process and biennial budget, is requesting funds to adequately address requests for assistance. Total costs will be determined by the number of counties complying with these regulations and their requests for assistance.

(b) Reporting and paperwork requirements: The cabinet will provide written comments on draft plans.

(3) Assessment of anticipated effect on state and local revenues: This regulation is a clarification and reorganization of existing regulations (401 KAR 49:020 and 49:030) which involve cabinet monitoring of solid waste management plans and provisions of technical assistance to counties. There will be no effect on state revenues from promulgation of this regulation. With regard to local revenues, waste management plans, in some instances, will be prepared by in-house county staff. In most cases, however, funding for outside expertise will require direct county appropriation. The

further effect on local revenues will be dependent upon the type of solid waste system the county is committed to implementing. For instance, if services are contracted with the private sector, the local governments may realize an increase in revenues (through permit or franchise fees, etc.). If a local government elects to perform the services, fees charged to households may offset general revenues allocated. Another varible in costs will be whether the county elects to develop a single county, multicounty or city/county solid waste plan in which revenues and costs will be shared among the entities involved.

(4) Assessment of alternative methods; reasons why alternatives were rejected: This regulation is a clarification and reorganization of existing regulations (401 KAR 49:020 and 030) and involves no new requirements. This regulation is based on KRS 224.888 which specifies the exact contents of the area plans and no alternatives were considered.

Alternative: 1. Less stringent: There are no new requirements associated with these regulations; therefore, less stringent alternatives were not considered.

2. More stringent: There are no new requirements associated with these regulations; therefore, more stringent alternatives were not considered.

3. Present proposal: This regulation outlines the contents for solid waste plans which will enable counties to provide an adequate solid waste system for citizens of the Commonwealth.

(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 conflicting, overlapping or duplicative.

(a) Necessity of proposed regulation if in conflict: There is no conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no conflict.

(6) Any additional information or comments: This regulation is a clarification and reorganization of current regulations and will involve no additional requirements or expenditures on either the state or local level.

TIERING: Was tiering applied? Yes. This proposed regulation applies to a single county, multicounty (regional) or city/county plan, depending upon which option they feel may be to their administrative and economic advantage.

COSTS RANGES FOR PLAN DEVELOPMENT

The figures below outline costs per task to prepare the plan document. Low, medium and high figures are given based on estimated costs submitted by counties prior to the actual plan preparation.

TASKS	COST RANGES ($)		
1. Establish solid waste (SW) Committee and identify problems	120	150	1,500
2. Collect data/analyze current situation	960	1,000	3,400
3. Establish goals and objectives	250	600	1,600
4. Analyze alternative systems	720	5,000	10,000
5. Select solid waste system, including institutional arrangements	480	1,500	2,000
6. Develop schedule of implementation and financial plan	480	2,000	5,500
7. Miscellaneous expenses (for consultants)	600	600	1,000
TOTALS	3,610	10,850	25,000

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. The proposed administrative regulation is consistent with the requirements of the federal Resource Conservation and Recovery Act of 1976, as amended.

2. State compliance standards. KRS 224.887 requires the cabinet to promulgate regulations for counties and waste management districts to create solid waste management areas and to require planning for the management and recovery of solid waste. The proposed administrative regulation establishes the minimum standards for solid waste management planning, including area plan content and area designation.

3. Minimum or uniform standards contained in the federal mandate. The federal mandate contains minimum standards for development and implementation of a state plan and upgrading of open dumps.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This administrative regulation imposes different requirements but is consistent with federal requirements for solid waste planning. Different requirements are for plan development and implementation to be done on a county level and to be consistent with the Kentucky waste management plan, as determined necessary by the cabinet.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Counties and waste management districts are required by KRS 224.887 to develop solid waste management plans and form solid waste management areas. Since each county is unique in resources and problems, planning will be tailored to specific problems and implementation will be more efficient.

CORRECTIONS CABINET

501 KAR 6:150. Eastern Kentucky 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 12, 1990, hereinafter should be referred to as the Eastern Kentucky 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 or may be reviewed at the Office of General Counsel weekdays from 8 a.m. to 4:30 p.m.

EKCC 01-01-01 Institutional Legal Assistance
EKCC 01-02-01 Public Information and News Media Access
EKCC 01-06-01 Inmate Death
EKCC 01-06-02 Crime Scene Camera
EKCC 01-07-01 Institutional Tours of EKCC
EKCC 01-07-02 EKCC Cooperation with Outside Bodies Including Courts, Governmental, Legislative, Executive, and Community Agencies
EKCC 01-07-03 Outside Consultation and Research
EKCC 01-08-01 Monthly Reports
EKCC 01-10-01 Annual Planning Document and Conference
EKCC 01-10-02 Organization and Assignment of Responsibility
EKCC 01-10-03 Institutional Planning
EKCC 01-13-01 Organization of Operations Manual
EKCC 01-13-02 Monitoring of Operations, Policies and Procedures
EKCC 01-13-03 Formulation and Revision of EKCC Operating Procedures
EKCC 01-13-04 Meetings Conducted and Their Purpose
EKCC 02-01-01 Canteen Cards: Issuance and Distribution
EKCC 02-01-02 Inmate Canteen
EKCC 02-02-01 Fiscal Management: Agency Funds
EKCC 02-05-01 Fiscal Management: Budget
EKCC 02-08-01 Property Inventory
EKCC 02-08-02 Warehouse Operation and Inventory Control
EKCC 02-11-01 Purchase and Supply Requisition
EKCC 02-12-01 Fiscal Management: Audits
EKCC 02-13-01 Fiscal Management: Accounting Procedures
EKCC 02-14-01 Screening Disbursements from Inmate Personal Accounts
EKCC 03-01-01 Construction Crew Entry/Exit
EKCC 03-08-01 Replacement of Damaged or Destroyed Personal Property
EKCC 03-09-01 Use of Interns and Students
EKCC 03-18-01 Fiscal Management: Insurance
EKCC 04-01-01 Staff Participation in Professional Organizations and Conferences; Provision for Leave and Reimbursement for Expenses
EKCC 04-02-01 Emergency Preparedness Training
EKCC 05-01-01 Inmate Participation in Authorized Research
EKCC 05-02-01 Information System
EKCC 06-01-01 Confidentiality of Information, Roles and Services of Consultants, Contract Personnel and Volunteers
EKCC 06-03-01 Offender Records
EKCC 08-02-01 Fire Safety
EKCC 08-03-01 Emergency Preparedness Manual
EKCC 08-05-01 Emergency Squad: Selection, Training and Evaluation
EKCC 09-04-01 Inmates Immediate Family, Bedside Visits; and Funeral Trips
EKCC 09-08-01 Unit Searches/Control of Excess Property
EKCC 09-08-02 Contraband, Dangerous Contraband, Search Policy
EKCC 09-09-01 Transportation of Inmates
EKCC 09-10-01 Institutional Inspections
EKCC 09-12-01 Key Control
EKCC 09-13-01 Institutional Post Orders
EKCC 09-15-01 Standards for Maintaining Perimeter Safety
EKCC 09-19-01 Contraband Outside Institutional Perimeter
EKCC 09-20-01 Drug Abuse/Intoxicants Testing
EKCC 09-21-01 Collection, Preservation of Evidence
EKCC 09-22-01 Restricted Areas
EKCC 09-23-01 Regulation of Inmate Movement
EKCC 09-24-01 Guidelines for Unit Staff
EKCC 09-25-01 Procedures for Prohibiting Inmate Authority over Other Inmates
EKCC 12-01-01 Vermin and Insect Control
EKCC 14-02-01 Personal Hygiene Items: Issuance and Replacement Schedule
EKCC 14-04-01 Inmate Legal Services
EKCC 14-06-01 Inmate Grievance Procedure
EKCC 15-05-01 Restoration of Forfeited Good Time
EKCC 16-02-01 Inmate Correspondence
EKCC 16-05-01 Inmate Access to and Communication with EKCC Staff
EKCC 16-05-02 Unit Bulletin Boards
EKCC 17-02-01 Assessment/Orientation
EKCC 17-04-01 Inmate Reception Process at the EKCC
EKCC 18-01-01 Inmate Classification
EKCC 18-10-01 Preparole Progress Report
EKCC 19-04-01 Inmate Work Program
EKCC 21-01-01 Library Services
EKCC 23-01-01 Religious Services
EKCC 25-02-01 Inmate Discharge Procedure
EKCC 25-03-01 Prerelease Preparation
EKCC 25-04-01 Extended Visits (Furlough)
EKCC 26-01-01 Citizens Involvement and Volunteers

JOHN T. WIGGINTON, Secretary
APPROVED BY AGENCY: January 12, 1990
FILED WITH LRC: January 12, 1990 at 11 a.m.
PUBLIC HEARING: A public hearing on this regulation has been scheduled for February 23, 1990 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: 205 employees of the Eastern Kentucky Correctional Complex and 0 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.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
Minutes of the January 3, 1990 Meeting

The January meeting of the Administrative Regulation Review Subcommittee was held on Wednesday, January 3, 1990 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 Kerr, the minutes of the December 11 and 12, 1989 meeting were approved.

Present January 3, 1990 were:

Members: Representative Mark D. O'Brien, Chairman; Senator Pat McCuiston; Representatives Jim Bruce and Tom Kerr.

Guests: Daniel F. Egbers, Tommy Greenwell, C. E. Vineyard, Department of Personnel; John W. Combs, Arthur Hatterick, Jr., Jim Terry, Personnel Board; David Carby, Bill Schmidt, Board of Medical Licensure; Greg Holmes, Board of Examiners and Registration of Landscape Architects; Michael Bradley, Ellen Tharpe, Corrections Cabinet; Sandra Pullen, Transportation Cabinet; Gary Bale, Beth A. Hargett, Paul McElwain, Rita L. Osborne, Ross B. Payton, H. M. Snodgrass, Department of Education; Porter Dailey, Morehead State University; Judith G. Walden, Department of Housing, Buildings and Construction; Karen Doyle, Ked Fitzpatrick, N. Clifton Howard, Gail Lanham, Anita Moore, Cabinet for Human Resources; R. K. Boyd, Ray Dailey, Westvaco Corporation.

LRC Staff: Susan Wunderlich, Joe Hood, Gregory Karambellas, Donna Pierce, Ann Gordon and Carla Arnold.

Press: John Voskuhl, Courier-Journal.

The Administrative Regulation Review Subcommittee met on January 3, 1990, and submits this report:

The Subcommittee determined that the following administrative regulations did not comply with KRS Chapter 13A:

Department of Personnel: Unclassified

101 KAR 3:040 (Unclassified service; classification and compensation plans.) Chairman O'Brien noted that this regulation provided for salary advances that were contrary to the requirements of KRS 18A.112. In order to insure that this conflict, and other conflicts relating to other aspects of personnel law, were resolved during the current session, the Subcommittee approved a motion objecting to this regulation as not in compliance with statutory authority.

Education and Humanities Cabinet: State Board for Elementary and Secondary Education: Office of School Administration and Finance: Food Service Programs

702 KAR 6:070 (Funds and reports.) After initial approval, a motion was passed to reconsider this regulation. The Subcommittee approved a motion to object for the following reason: the Subcommittee members felt that the increase in the price of lunches for adults might be unreasonable and contrary to legislative intent; and the members felt that this increase should be screened very closely by other appropriate committees and the General Assembly.

The Subcommittee determined that the following administrative regulation, as amended, did not comply with KRS Chapter 13A:

Corrections Cabinet: Office of the Secretary

501 KAR 6:140 (Bell County Forestry Camp.) This regulation was amended to comply with objections raised by the initial staff review. Agency personnel agreed that BCFC 02-01-03, as it related to transportation of inmates, violated KRS 197.180. This statute requires transportation of a released inmate to the county from which he was sent to the institution. However, because of parole board determinations, and other valid considerations, the cabinet did not comply with the statute. Chairman O'Brien and Representative Kerr pointed out that the agency's reasoning was understood, but since its policy directly violated the statute, the Subcommittee should object to the regulation as not conforming to statutory authority. Both members pointed out that the correct procedure would be to amend the statute during the current session. The Subcommittee approved a motion that this regulation did not comply with statutory authority.

The Subcommittee determined that the following administrative regulations, as amended, complied with KRS Chapter 13A:

Department of Personnel: Classified

101 KAR 2:100 (Leave regulations.) This regulation was amended to cite KRS 18A.155 as statutory authority; to comply with the drafting requirements of KRS 13A.222; and to delete language that conflicted with 101 KAR 3:010 with regard to payment of accumulated annual leave on reversion or on appointment to a lower salaried position.

Classified

101 KAR 3:010 (Leave regulations for unclassified service.) This regulation was amended to comply with the drafting requirements of KRS 13A.222; and to delete language that permitted payment of accumulated annual leave at a higher salary on reversion or appointment to a lower salaried position. This amendment insured that this regulation and 101 KAR 2:100 did not conflict.

101 KAR 3:050 (Unclassified service; promotion, transfer and disciplinary actions.) This regulation was amended to delete the word "permanent" because this classification does not exist in KRS Chapter 18A; and to amend Section 3 to delete the definition of demotion since the definition appears in KRS 18A.005(9). KRS 13A.120 prohibits the repetition or summary of statutory language in a regulation.

General Government Cabinet: Board of Medical Licensure

201 KAR 9:021 (Medical and osteopathic schools approved by the board, denial or withdrawal of approval, application of KRS 311.271, postgraduate training requirements, approved programs, recognition of degrees.) This regulation was amended, to make it clear that either item specified in Section 2 would satisfy the requirement, deleting the slash and inserting the word "or". Agency personnel stated that they agreed with an objection raised that a

list of schools that had been approved or disapproved by the board had to be contained in the regulation. They pointed out that when the board approves or disapproves a school, the regulation would be amended to reflect the board's action. Chairman O'Brien pointed out that an objection had been raised to Section 5(2) because it required three year postgraduate training while KRS 311.571(1)(f) required a shorter period. Agency personnel stated that this requirement was necessary in order to insure that graduates of foreign schools that did not meet accreditation requirements received necessary additional training. Chairman O'Brien stated that the Subcommittee sympathized with the board but requested that they seek an amendment to KRS Chapter 311 during the current session to clarify the board's authority in this matter. Agency personnel agreed.

Corrections Cabinet: Office of the Secretary
501 KAR 6:050 (Luther Luckett Correctional Complex.) This regulation was amended to comply with the objections raised in the initial staff review.

Transportation Cabinet: Department of Vehicle Regulation: Motor Vehicle Tax
601 KAR 9:045 (Proportional registration of rental vehicle fleets.) Representative Kerr pointed out that Section 3(3) was deficient in that it did not cover registration requirements for vehicles owned by corporations. He moved that the regulation be amended by adding the following language to this section - after the word "application." insert the following: "For corporations, the month of incorporation shall be considered the birth month." The Subcommittee approved the motion.

Public Protection and Regulation Cabinet: Department of Housing, Buildings and Construction: Kentucky Building Code
815 KAR 7:080 (Licensing of fire protection sprinkler contractors.) Section 8(3) of this regulation was amended to clarify its meaning.
Plumbing
815 KAR 20:090 (Soil, waste and vent systems.) This regulation was amended to comply with the drafting requirements of KRS 13A.222.

The Subcommittee determined that the following regulations complied with KRS Chapter 13A:

Department of Personnel: Classified
101 KAR 2:150 (State safety program.)
101 KAR 2:160 (Kentucky employee assistance program.)
Unclassified
101 KAR 3:006 (Repeal of 101 KAR 3:030.)

General Government Cabinet: Board of Medical Licensure
201 KAR 9:016 (Restrictions on use of amphetamine and amphetamine-like anorectic controlled substances.)
201 KAR 9:031 (Examinations.)
201 KAR 9:041 (Fee schedule.)
201 KAR 9:081 (Disciplinary proceedings.)
Board of Examiners and Registration of Landscape Architects
201 KAR 10:010 (Duties of board.)
201 KAR 10:030 (Code of ethics.)
201 KAR 10:040 (Applications.) Chairman O'Brien reminded agency personnel that they were to meet with staff to amend these regulations in the future to comply with the drafting requirements of KRS 13A.222.
201 KAR 10:060 (Renewals.)

Transportation Cabinet: Department of Vehicle Regulation: Coal Transportation
601 KAR 35:060 (Extended weight coal haul decals.)
Department of Highways: Traffic
603 KAR 5:070 (Truck dimension limits.
603 KAR 5:077 (Motor vehicles prohibited on Louisville Hill, Frankfort.)

Education and Humanities Cabinet: State Board for Elementary and Secondary Education: Department of Education: Office of Superintendent
701 KAR 5:060 (Code of ethics for state testing program.)
Office of School Administration and Finance: School District Finance
702 KAR 3:135 (Bidding procedures.)
Food Service Programs
702 KAR 6:010 (Local responsibilities.)
702 KAR 6:030 (Principal's responsibilities.)
702 KAR 6:040 (Personnel; policies and procedures.)
702 KAR 6:081 (Repeal of 702 KAR 6:080.)
School Terms, Attendance and Operation
702 KAR 7:065 (Designation of agent to manage high school interscholastic athletics.)
Office of Instruction: Instructional Services
704 KAR 3:325 (Effective Instructional Leadership Act.)

Public Protection and Regulation Cabinet: Department of Housing, Buildings and Construction: Plumbing
815 KAR 20:070 (Plumbing fixtures.)
815 KAR 20:110 (Traps and clean-outs.)

Cabinet for Human Resources: Department for Social Insurance: Public Assistance
904 KAR 2:022 (Kentucky administrative process for child support.) Representative Bruce pointed out that the regulations relating to the child support payment should have been more thoroughly reviewed and discussed at last month's meeting. He pointed out that the requirements would complicate divorce proceedings and increase the complexity and difficulty of a settlement. He added that the discretion of judges to consider other factors affecting the issue of child support would be limited by these requirements. He requested that the minutes of the Subcommittee reflect his concern and his discussion of the issues raised.
Department for Medicaid Services: Medicaid Services
907 KAR 1:414 (Incorporation by reference of the dental services manual.)
Department for Mental Health and Mental Retardation Services: Institutional Care
908 KAR 3:080 (Policies and procedures of Hazelwood ICF-MR.)

The following regulations were withdrawn at the promulgating agency's request:

General Government Cabinet: Board of Medical Licensure
201 KAR 9:018 (Physician advertising.)

Board of Registration for Professional Engineers and Land Surveyors
201 KAR 18:040 (Fees.)

Education and Humanities Cabinet: State Board for Elementary and Secondary Education: Department of Education: Office of Instruction: Instructional Services
704 KAR 3:005 (Educational Improvement Act.)

Cabinet for Human Resources: Office of Administrative Services: Vital Statistics
901 KAR 5:031 (Definitions: live birth, fetal death, induced termination of pregnancy and reportable events.)

Department for Social Insurance: Public Assistance
904 KAR 2:116 (Low income home energy assistance program.)

The following regulations were deferred at the promulgating agency's request:

Public Protection and Regulation Cabinet: Board of Pharmacy
201 KAR 2:030 (Reciprocity; temporary license.)

Natural Resources and Environmental Protection Cabinet: Department for Environmental Protection: Division of Water: Water Quality
401 KAR 5:026 (Classification of waters.)
401 KAR 5:029 (General provisions.)
401 KAR 5:031 (Surface water standards.)

Transportation Cabinet: Department of Vehicle Regulation: Division of Motor Carriers
601 KAR 1:005 (Safety regulations.) This regulation was deferred because a public hearing had been held and the Statement of Consideration had not yet been filed.

Education and Humanities Cabinet: State Board for Elementary and Secondary Education: Department of Education: Office of Instruction: Instructional Services
704 KAR 3:335 (State plan for the administration of Chapter 2 of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988.) This regulation was deferred to allow the agency to amend the regulation to comply with KRS Chapter 13A.

Teacher Certification
704 KAR 20:550 (Professional school certificate for college faculty.)

Morehead State University: Board of Regents
The following regulations were deferred to allow the agency to amend the regulations to comply with KRS Chapter 13A and KRS Chapter 164A.
755 KAR 1:010 (Acquisition and disbursement of funds.)
755 KAR 1:020 (Annual audits.)
755 KAR 1:030 (Purchasing, inventories, sales of surplus property, bidding procedures.)
755 KAR 1:040 (Disposal of property proceeds, title.)
755 KAR 1:050 (Issuance of bonds.)
755 KAR 1:060 (Delegation of financial management responsibility.)

The following administrative regulations, as amended, were deferred upon request of the promulgating agency:

Public Protection and Regulation Cabinet: Department of Housing, Buildings and Construction: Standards of Safety
The agency submitted a nine-page amendment to the following two regulations. The Subcommittee approved the amendments and the regulations were deferred to allow the Subcommittee and staff time to analyze the amendments.
815 KAR 10:030 (Administration and enforcement of the Kentucky Standards of Safety (Fire Prevention Code).)
815 KAR 10:035 (Kentucky Standards of Safety.)

The Subcommittee had no objections to emergency regulations which had been filed.

Other Business:

Upon request by the Department of Housing, Buildings and Construction, the Subcommittee agreed to place on the February agenda the plumbing regulations which were objected to at the December meeting.

The Subcommittee adjourned at 11:30 a.m. until February 5, 1990.

OTHER COMMITTEE REPORTS

COMPILER'S NOTE: In accordance with KRS 13A.290(9), the following reports were forwarded to the Legislative Research Commission by the appropriate jurisdictional committees 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.

SENATE AND HOUSE STATE GOVERNMENT COMMITTEES
Joint Meeting of January 9, 1990

The Senate and House State Government Committees met jointly on January 9, 1990, and submit this report.

The Committees determined that the following administrative regulation complies with KRS Chapter 13A, as amended by the Committees this date (see below), with concurrence of the Department of Personnel:

101 KAR 2:020 (Classification plan)

Amend new Section 3, page 4, lines 2 and 3, to delete the language: "budget estimates,".

SENATE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES
HOUSE COMMITTEE ON NATURAL RESOURCES & ENVIRONMENT
Joint Meeting of January 9, 1990

The Senate Committee on Agriculture and Natural Resources and the House Committee on Natural Resources and Environment met jointly Tuesday, January 9, 1990, at 12:00 Noon, and determined that the following administrative regulations comply with KRS Chapter 13A:

301 KAR 1:200
301 KAR 2:220
301 KAR 3:080
401 KAR 5:005
401 KAR 5:010
401 KAR 39:060
401 KAR 39:080
401 KAR 39:090
401 KAR 39:110
401 KAR 39:120
405 KAR 10:200

At this joint meeting the following administrative regulations were briefly discussed but no official action was taken:

401 KAR 5:085
401 KAR 6:300
401 KAR 39:010
401 KAR 39:020
401 KAR 39:030, as amended
401 KAR 39:070, as amended
401 KAR 50:036

The joint meeting adjourned at 1:10 p.m., January 9, 1990.

CUMULATIVE SUPPLEMENT

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

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702 KAR 5:080E	335	7-17-89
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904 KAR 2:025E	741	10-9-89
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904 KAR 2:055E	1139	10-31-89
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