Administrative Register of Kentucky

LEGISLATIVE RESEARCH COMMISSION
FRANKFORT, KENTUCKY

VOLUME 16, NUMBER 9
THURSDAY, MARCH 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 March 5, 1990. See tentative agenda on pages 1829-1831 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

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

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ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
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REGULATION REVIEW PROCEDURE

Filing and Publication

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

Public Hearing

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

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

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

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

Review Procedure

If a proposed administrative regulation is amended as a result of the public hearing, the amended version shall be published in the next Administrative Register; and the regulation shall be reviewed by the Administrative Regulation Review Subcommittee at its next meeting following publication. 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
401 KAR 30:010E

This regulation is part of a comprehensive revision of the administrative regulations governing the disposal of solid waste and solid waste management. It has been determined that an emergency exists which requires immediate action to assure necessary protection of public health and the environment. An ordinary regulation will not suffice and this emergency regulation is necessary to protect groundwaters and surface waters of the Commonwealth from degradation which may adversely affect public health and the environment. This revision package provides for the planning, siting, design, construction, operation and closure of solid waste management facilities and for the development of solid waste management systems at the state and local levels. Standards contained in the current regulations have been determined to be inadequate to sufficiently protect public health and the environment. In addition, many communities are facing a crisis situation regarding the disposal of their wastes and the cabinet cannot delay addressing these emergency situations until completion of the ordinary regulation review process. This emergency regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on January 15, 1990.

WALLACE G. WILKINSON, Governor
CARL H. BRADLEY, Secretary

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 30:010E. Definitions.

RELATES TO: KRS 224.033, 224.830 through 224.889, 224.994
STATUTORY AUTHORITY: KRS Chapter 13A, 224.033
EFFECTIVE: January 16, 1990
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) [(11)] "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) [(12)] "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 16, 1990 at 10 a.m.

STATEMENT OF EMERGENCY
401 KAR 30:020E

This regulation is part of a comprehensive revision of the administrative regulations governing the disposal of solid waste and solid waste management. It has been determined that an emergency exists which requires immediate action to assure necessary protection of public health and the environment. An ordinary regulation will not suffice and this emergency regulation is necessary to protect groundwaters and surface waters of the Commonwealth from degradation which may adversely affect public health and the environment. This revision package provides for the planning, siting, design, construction, operation and closure of solid waste management facilities and for the development of solid waste management systems at the state and local levels. Standards contained in the current regulations have been determined to be inadequate to sufficiently protect public health and the environment. In addition, many communities are facing a crisis situation regarding the disposal of their wastes and the cabinet cannot delay addressing these emergency situations until completion of the ordinary regulation review process. This emergency regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on January 15, 1990.

WALLACE G. WILKINSON, Governor
CARL H. BRADLEY, Secretary

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 30:020E. General provisions.

RELATES TO: KRS 224.033, 224.036, 224.830 through 224.889, 224.994
STATUTORY AUTHORITY: KRS Chapter 13A, 224.033
EFFECTIVE: January 16, 1990
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 16, 1990 at 10 a.m.

STATEMENT OF EMERGENCY
401 KAR 40:060E

This regulation is part of a comprehensive revision of the administrative regulations governing the disposal of solid waste and solid waste management. It has been determined that an emergency exists which requires immediate action to assure necessary protection of public health and the environment. An ordinary regulation will not suffice and this emergency regulation is necessary to protect groundwaters and surface waters of the Commonwealth from degradation which may adversely affect public health and the environment. This revision package provides for the planning, siting, design, construction, operation and closure of solid waste management facilities and for the development of solid waste management systems at the state and local levels. Standards contained in the current regulations have been determined to be inadequate to sufficiently protect public health and the environment. In addition, many communities are facing a crisis situation regarding the disposal of their wastes and the cabinet cannot delay addressing these emergency situations until completion of the ordinary regulation review process. This emergency regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on January 15, 1990.

WALLACE G. WILKINSON, Governor
CARL H. BRADLEY, Secretary

NATURAL RESOURCES & ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 40:060E. 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
EFFECTIVE: January 16, 1990
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 16, 1990 at 10 a.m.

STATEMENT OF EMERGENCY
401 KAR 47:030E

This regulation is part of a comprehensive revision of the administrative regulations governing the disposal of solid waste and solid waste management. It has been determined that an emergency exists which requires immediate action to assure necessary protection of public health and the environment. An ordinary regulation will not suffice and this emergency regulation is necessary to protect groundwaters and surface waters of the Commonwealth from degradation which may adversely affect public health and the environment. This revision package provides for the planning, siting, design, construction, operation and closure of solid waste management facilities and for the development of solid waste management systems at the state and local levels. Standards contained in the current regulations have been determined to be inadequate to sufficiently protect public health and the environment. In addition, many communities are facing a crisis situation regarding the disposal of their wastes and the cabinet cannot delay addressing these emergency situations until completion of the ordinary regulation review process. This emergency regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on January 15, 1990.

WALLACE G. WILKINSON, Governor
CARL H. BRADLEY, Secretary

NATURAL RESOURCES & ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 47:030E. 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
EFFECTIVE: January 16, 1990
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 16, 1990 at 10 a.m.

STATEMENT OF EMERGENCY
401 KAR 47:070E

This regulation is part of a comprehensive revision of the administrative regulations governing the disposal of solid waste and solid waste management. It has been determined that an emergency exists which requires immediate action to assure necessary protection of public health and the environment. An ordinary regulation will not suffice and this emergency regulation is necessary to protect groundwaters and surface waters of the Commonwealth from degradation which may adversely affect public health and the environment. This revision package provides for the planning, siting, design, construction, operation and closure of solid waste management facilities and for the development of solid waste management systems at the state and local levels. Standards contained in the current regulations have been determined to be inadequate to sufficiently protect public health and the environment. In addition, many communities are facing a crisis situation regarding the disposal of their wastes and the cabinet cannot delay addressing these emergency situations until completion of the ordinary regulation review process. This emergency regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on January 15, 1990.

WALLACE G. WILKINSON, Governor
CARL H. BRADLEY, Secretary

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 47:070E. 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)]
EFFECTIVE: January 16, 1990
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 16, 1990 at 10 a.m.

STATEMENT OF EMERGENCY
401 KAR 47:080E

This regulation is part of a comprehensive revision of the administrative regulations governing the disposal of solid waste and solid waste management. It has been determined that an emergency exists which requires immediate action to assure necessary protection of public health and the environment. An ordinary regulation will not suffice and this emergency regulation is necessary to protect groundwaters and surface waters of the Commonwealth from degradation which may adversely affect public health and the environment. This revision package provides for the planning, siting, design, construction, operation and closure of solid waste management facilities and for the development of solid waste management systems at the state and local levels. Standards contained in the current regulations have been determined to be inadequate to sufficiently protect public health and the environment. In addition, many communities are facing a crisis situation

regarding the disposal of their wastes and the cabinet cannot delay addressing these emergency situations until completion of the ordinary regulation review process. This emergency regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on January 15, 1990.

WALLACE G. WILKINSON, Governor
CARL H. BRADLEY, Secretary

NATURAL RESOURCES & ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 47:080E. 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
EFFECTIVE: January 16, 1990
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 16, 1990 at 10 a.m.

STATEMENT OF EMERGENCY
401 KAR 47:090E

This regulation is part of a comprehensive revision of the administrative regulations governing the disposal of solid waste and solid waste management. It has been determined that an emergency exists which requires immediate action to assure necessary protection of public health and the environment. An ordinary regulation will not suffice and this emergency regulation is necessary to protect groundwaters and surface waters of the Commonwealth from degradation which may adversely affect public health and the environment. This revision package provides for the planning, siting, design, construction, operation and closure of solid waste management facilities and for the development of solid waste management systems at the state and local levels. Standards contained in the current regulations have been determined to be inadequate to sufficiently protect public health and the environment. In addition, many communities are facing a crisis situation regarding the disposal of their wastes and the cabinet cannot delay addressing these emergency situations until completion of the ordinary regulation review process. This emergency regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on January 15, 1990.

WALLACE G. WILKINSON, Governor
CARL H. BRADLEY, Secretary

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 47:090E. Solid waste permit fees.

RELATES TO: KRS 224.846, 224.855
STATUTORY AUTHORITY: KRS 13A.210, 224.033
EFFECTIVE: January 16, 1990
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 16, 1990 at 10 a.m.

STATEMENT OF EMERGENCY
401 KAR 47:100E

This regulation is part of a comprehensive revision of the administrative regulations governing the disposal of solid waste and solid waste management. It has been determined that an emergency exists which requires immediate action to assure necessary protection of public health and the environment. An ordinary regulation will not suffice and this emergency regulation is necessary to protect groundwaters and surface waters of the Commonwealth from degradation which may adversely affect public health and the environment. This revision package provides for the planning, siting, design, construction, operation and closure of solid waste management facilities and for the development of solid waste management systems at the state and local levels. Standards contained in the current regulations have been determined to be inadequate to sufficiently protect public health and the environment. In addition, many communities are facing a crisis situation regarding the disposal of their wastes and the cabinet cannot delay addressing these emergency situations until completion of the ordinary regulation review process. This emergency regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on January 15, 1990.

WALLACE G. WILKINSON, Governor
CARL H. BRADLEY, Secretary

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 47:100E. 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
EFFECTIVE: January 16, 1990
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 16, 1990 at 10 a.m.

STATEMENT OF EMERGENCY
401 KAR 47:110E

This regulation is part of a comprehensive revision of the administrative regulations governing the disposal of solid waste and solid waste management. It has been determined that an emergency exists which requires immediate action to assure necessary protection of public health and the environment. An ordinary regulation will not suffice and this emergency regulation is necessary to protect groundwaters and surface waters of the Commonwealth from degradation which may adversely affect public health and the environment. This revision package provides for the planning, siting, design, construction, operation and closure of solid waste management facilities and for the development of solid waste management systems at the state and local levels. Standards contained in the current regulations have been determined to be inadequate to sufficiently protect public health and the environment. In addition, many communities are facing a crisis situation regarding the disposal of their wastes and the cabinet cannot delay addressing these emergency situations until completion of the ordinary regulation review process. This emergency regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on January 15, 1990.

WALLACE G. WILKINSON, Governor
CARL H. BRADLEY, Secretary

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 47:110E. 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
EFFECTIVE: January 16, 1990
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 16, 1990 at 10 a.m.

STATEMENT OF EMERGENCY
401 KAR 47:120E

This regulation is part of a comprehensive revision of the administrative regulations governing the disposal of solid waste and solid waste management. It has been determined that an emergency exists which requires immediate action to assure necessary protection of public health and the environment. An ordinary regulation will not suffice and this emergency regulation is necessary to protect groundwaters and surface waters of the Commonwealth from degradation which may adversely affect public health and the environment. This revision package provides for the planning, siting, design, construction, operation and closure of solid waste management facilities and for the development of solid waste management systems at the state and local levels. Standards contained in the current regulations have been determined to be inadequate to sufficiently protect public health and the environment. In addition, many communities are facing a crisis situation regarding the disposal of their wastes and the cabinet cannot delay addressing these emergency situations until completion of the ordinary regulation review process. This emergency regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on January 15, 1990.

WALLACE G. WILKINSON, Governor
CARL H. BRADLEY, Secretary

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 47:120E. 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

EFFECTIVE: January 16, 1990

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 16, 1990 at 10 a.m.

STATEMENT OF EMERGENCY
401 KAR 47:130E

This regulation is part of a comprehensive revision of the administrative regulations governing the disposal of solid waste and solid waste management. It has been determined that an emergency exists which requires immediate action to assure necessary protection of public health and the environment. An ordinary regulation will not suffice and this emergency regulation is necessary to protect groundwaters and surface waters of the Commonwealth from degradation which may adversely affect public health and the environment. This revision package provides for the planning, siting, design, construction, operation and closure of solid waste management facilities and for the development of solid waste management systems at the state and local levels. Standards contained in the current regulations have been determined to be inadequate to sufficiently protect public health and the environment. In addition, many communities are facing a crisis situation regarding the disposal of their wastes and the cabinet cannot delay addressing these emergency situations until completion of the ordinary regulation review process. This emergency regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on January 15, 1990.

WALLACE G. WILKINSON, Governor
CARL H. BRADLEY, Secretary

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 47:130E. 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
EFFECTIVE: January 16, 1990
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 16, 1990 at 10 a.m.

STATEMENT OF EMERGENCY
401 KAR 47:140E

This regulation is part of a comprehensive revision of the administrative regulations governing the disposal of solid waste and solid waste management. It has been determined that an emergency exists which requires immediate action to assure necessary protection of public health and the environment. An ordinary regulation will not suffice and this emergency regulation is necessary to protect groundwaters and surface waters of the Commonwealth from degradation which may adversely affect public health and the environment. This revision package provides for the planning, siting, design, construction, operation and closure of solid waste management facilities and for the development of solid waste management systems at the state and local levels. Standards contained in the current regulations have been determined to be inadequate to sufficiently protect public health and the environment. In addition, many communities are facing a crisis situation regarding the disposal of their wastes and the cabinet cannot delay addressing these emergency situations until completion of the ordinary regulation review process. This emergency regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on January 15, 1990.

WALLACE G. WILKINSON, Governor
CARL H. BRADLEY, Secretary

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 47:140E. 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
EFFECTIVE: January 16, 1990
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 16, 1990 at 10 a.m.

STATEMENT OF EMERGENCY
401 KAR 47:150E

This regulation is part of a comprehensive revision of the administrative regulations governing the disposal of solid waste and solid waste management. It has been determined that an emergency exists which requires immediate action to assure necessary protection of public health and the environment. An ordinary regulation will not suffice and this emergency regulation is necessary to protect groundwaters and surface waters of the Commonwealth from degradation which may adversely affect public health and the environment. This revision package provides for the planning, siting, design, construction, operation and closure of solid waste management facilities and for the development of solid waste management systems at the state and local levels. Standards contained in the current regulations have been determined to be inadequate to sufficiently protect public health and the environment. In addition, many communities are facing a crisis situation regarding the disposal of their wastes and the cabinet cannot delay addressing these emergency situations until completion of the ordinary regulation review process. This emergency regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on January 15, 1990.

WALLACE G. WILKINSON, Governor
CARL H. BRADLEY, Secretary

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 47:150E. 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
EFFECTIVE: January 16, 1990
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 16, 1990 at 10 a.m.

STATEMENT OF EMERGENCY
401 KAR 47:160E

This regulation is part of a comprehensive revision of the administrative regulations governing the disposal of solid waste and solid waste management. It has been determined that an emergency exists which requires immediate action to assure necessary protection of public health and the environment. An ordinary regulation will not suffice and this emergency regulation is necessary to protect groundwaters and surface waters of the Commonwealth from degradation which may adversely affect public health and the environment. This revision package provides for the planning, siting, design, construction, operation and closure of solid waste management facilities and for the development of solid waste management systems at the state and local levels. Standards contained in the current regulations have been determined to be inadequate to sufficiently protect public health and the environment. In addition, many communities are facing a crisis situation regarding the disposal of their wastes and the cabinet cannot delay addressing these emergency situations until completion of the ordinary regulation review process. This emergency regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on January 15, 1990.

WALLACE G. WILKINSON, Governor
CARL H. BRADLEY, Secretary

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 47:160E. 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
EFFECTIVE: January 16, 1990
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 16, 1990 at 10 a.m.

STATEMENT OF EMERGENCY
401 KAR 47:170E

This regulation is part of a comprehensive revision of the administrative regulations governing the disposal of solid waste and solid waste management. It has been determined that an emergency exists which requires immediate action to assure necessary protection of public health and the environment. An ordinary regulation will not suffice and this emergency regulation is necessary to protect groundwaters and surface waters of the Commonwealth from degradation which may adversely affect public health and the environment. This revision package provides for the planning, siting, design, construction, operation and closure of solid waste management facilities and for the development of solid waste management systems at the state and local levels. Standards contained in the current regulations have been determined to be inadequate to sufficiently protect public health and the environment. In addition, many communities are facing a crisis situation regarding the disposal of their wastes and the cabinet cannot delay addressing these emergency situations until completion of the ordinary regulation review process. This emergency regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on January 15, 1990.

WALLACE G. WILKINSON, Governor
CARL H. BRADLEY, Secretary

NATURAL RESOURCES & ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 47:170E. 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
EFFECTIVE: January 16, 1990
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 16, 1990 at 10 a.m.

STATEMENT OF EMERGENCY
401 KAR 47:180E

This regulation is part of a comprehensive revision of the administrative regulations governing the disposal of solid waste and solid waste management. It has been determined that an emergency exists which requires immediate action to assure necessary protection of public health and the environment. An ordinary regulation will not suffice and this emergency regulation is necessary to protect groundwaters and surface waters of the Commonwealth from degradation which may adversely affect public health and the environment. This revision package provides for the planning, siting, design, construction, operation and closure of solid waste management facilities and for the development of solid waste management systems at the state and local levels. Standards contained in the current regulations have been determined to be inadequate to sufficiently protect public health and the environment. In addition, many communities are facing a crisis situation regarding the disposal of their wastes and the cabinet cannot delay addressing these emergency situations until completion of the ordinary regulation review process. This emergency regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on January 15, 1990.

WALLACE G. WILKINSON, Governor
CARL H. BRADLEY, Secretary

NATURAL RESOURCES & ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 47:180E. 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
EFFECTIVE: January 16, 1990
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 16, 1990 at 10 a.m.

STATEMENT OF EMERGENCY
401 KAR 47:190E

This regulation is part of a comprehensive revision of the administrative regulations governing the disposal of solid waste and solid

waste management. It has been determined that an emergency exists which requires immediate action to assure necessary protection of public health and the environment. An ordinary regulation will not suffice and this emergency regulation is necessary to protect groundwaters and surface waters of the Commonwealth from degradation which may adversely affect public health and the environment. This revision package provides for the planning, siting, design, construction, operation and closure of solid waste management facilities and for the development of solid waste management systems at the state and local levels. Standards contained in the current regulations have been determined to be inadequate to sufficiently protect public health and the environment. In addition, many communities are facing a crisis situation regarding the disposal of their wastes and the cabinet cannot delay addressing these emergency situations until completion of the ordinary regulation review process. This emergency regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on January 15, 1990.

WALLACE G. WILKINSON, Governor
CARL H. BRADLEY, Secretary

NATURAL RESOURCES & ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 47:190E. 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
EFFECTIVE: January 16, 1990
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 16, 1990 at 10 a.m.

STATEMENT OF EMERGENCY
401 KAR 48:050E

This regulation is part of a comprehensive revision of the administrative regulations governing the disposal of solid waste and solid waste management. It has been determined that an emergency exists which requires immediate action to assure necessary protection of public health and the environment. An ordinary regulation will not suffice and this emergency regulation is necessary to protect groundwaters and surface waters of the Commonwealth from degradation which may adversely affect public health and the environment. This revision package provides for the planning, siting, design, construction, operation and closure of solid waste management facilities and for the development of solid waste management systems at the state and local levels. Standards contained in the current regulations have been determined to be inadequate to sufficiently protect public health and the environment. In addition, many communities are facing a crisis situation regarding the disposal of their wastes and the cabinet cannot delay addressing these emergency situations until completion of the ordinary regulation review process. This emergency regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on January 15, 1990.

WALLACE G. WILKINSON, Governor
CARL H. BRADLEY, Secretary

NATURAL RESOURCES & ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 48:050E. 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
EFFECTIVE: January 16, 1990
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 16, 1990 at 10 a.m.

STATEMENT OF EMERGENCY
401 KAR 48:060E

This regulation is part of a comprehensive revision of the administrative regulations governing the disposal of solid waste and solid waste management. It has been determined that an emergency exists which requires immediate action to assure necessary protection of public health and the environment. An ordinary regulation will not suffice and this emergency regulation is necessary to protect groundwaters and surface waters of the Commonwealth from degradation which may adversely affect public health and the environment. This revision package provides for the planning, siting, design, construction, operation and closure of solid waste management facilities and for the development of solid waste management systems at the state and local levels. Standards contained in the current regulations have been determined to be inadequate to sufficiently protect public health and the environment. In addition, many communities are facing a crisis situation regarding the disposal of their wastes and the cabinet cannot delay addressing these emergency situations until completion of the ordinary regulation review process. This emergency regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on January 15, 1990.

WALLACE G. WILKINSON, Governor
CARL H. BRADLEY, Secretary

NATURAL RESOURCES & ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 48:060E. 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
EFFECTIVE: January 16, 1990
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 16, 1990 at 10 a.m.

STATEMENT OF EMERGENCY
401 KAR 48:070E

This regulation is part of a comprehensive revision of the administrative regulations governing the disposal of solid waste and solid waste management. It has been determined that an emergency exists which requires immediate action to assure necessary protection of public health and the environment. An ordinary regulation will not suffice and this emergency regulation is necessary to protect groundwaters and surface waters of the Commonwealth from degradation which may adversely affect public health and the environment. This revision package provides for the planning, siting, design, construction, operation and closure of solid waste management facilities and for the development of solid waste management systems at the state and local levels. Standards contained in the current regulations have been determined to be inadequate to sufficiently protect public health and the environment. In addition, many communities are facing a crisis situation regarding the disposal of their wastes and the cabinet cannot delay addressing these emergency situations until completion of the ordinary regulation review process. This emergency regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on January 15, 1990.

WALLACE G. WILKINSON, Governor
CARL H. BRADLEY, Secretary

NATURAL RESOURCES & ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 48:070E. 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
EFFECTIVE: January 16, 1990
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 16, 1990 at 10 a.m.

STATEMENT OF EMERGENCY
401 KAR 48:080E

This regulation is part of a comprehensive revision of the administrative regulations governing the disposal of solid waste and solid waste management. It has been determined that an emergency exists which requires immediate action to assure necessary protection of public health and the environment. An ordinary regulation will not suffice and this emergency regulation is necessary to protect groundwaters and surface waters of the Commonwealth from degradation which may adversely affect public health and the environment. This revision package provides for the planning, siting, design, construction, operation and closure of solid waste management facilities and for the development of solid waste management systems at the state and local levels. Standards contained in the current regulations have been determined to be inadequate to sufficiently protect public health and the environment. In addition, many communities are facing a crisis situation regarding the disposal of their wastes and the cabinet cannot delay addressing these emergency situations until completion of the ordinary regulation review process. This emergency regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on January 15, 1990.

WALLACE G. WILKINSON, Governor
CARL H. BRADLEY, Secretary

NATURAL RESOURCES & ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 48:080E. 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
EFFECTIVE: January 16, 1990
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 1×10^{-3};

(3) A filter fabric or other material approved by the cabinet;

(4) An eighteen (18) inch clay layer with a maximum permeability of 1×10^{-7} centimeters per second;

(5) A twelve (12) inch drainage layer with a minimum permeability of 1×10^{-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 1×10^{-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 16, 1990 at 10 a.m.

STATEMENT OF EMERGENCY
401 KAR 48:090E

This regulation is part of a comprehensive revision of the administrative regulations governing the disposal of solid waste and solid waste management. It has been determined that an emergency exists which requires immediate action to assure necessary protection of public health and the environment. An ordinary regulation will not suffice and this emergency regulation is necessary to protect groundwaters and surface waters of the Commonwealth from degradation which may adversely affect public health and the environment. This revision package provides for the planning, siting, design, construction, operation and closure of solid waste management facilities and for the development of solid waste management systems at the state and local levels. Standards contained in the current regulations have been determined to be inadequate to sufficiently protect public health and the environment. In addition, many communities are facing a crisis situation regarding the disposal of their wastes and the cabinet cannot delay addressing these emergency situations until completion of the ordinary regulation review process. This emergency regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on January 15, 1990.

WALLACE G. WILKINSON, Governor
CARL H. BRADLEY, Secretary

NATURAL RESOURCES & ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 48:090E. 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
EFFECTIVE: January 16, 1990
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 16, 1990 at 10 a.m.

STATEMENT OF EMERGENCY
401 KAR 48:170E

This regulation is part of a comprehensive revision of the administrative regulations governing the disposal of solid waste and solid waste management. It has been determined that an emergency exists which requires immediate action to assure necessary protection of public health and the environment. An ordinary regulation will not suffice and this emergency regulation is necessary to protect groundwaters and surface waters of the Commonwealth from degradation which may adversely affect public health and the environment. This revision package provides for the planning, siting, design, construction,

operation and closure of solid waste management facilities and for the development of solid waste management systems at the state and local levels. Standards contained in the current regulations have been determined to be inadequate to sufficiently protect public health and the environment. In addition, many communities are facing a crisis situation regarding the disposal of their wastes and the cabinet cannot delay addressing these emergency situations until completion of the ordinary regulation review process. This emergency regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on January 15, 1990.

WALLACE G. WILKINSON, Governor
CARL H. BRADLEY, Secretary

NATURAL RESOURCES & ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 48:170E. 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
EFFECTIVE: January 16, 1990
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 16, 1990 at 10 a.m.

STATEMENT OF EMERGENCY
401 KAR 48:200E

This regulation is part of a comprehensive revision of the administrative regulations governing the disposal of solid waste and solid waste management. It has been determined that an emergency exists which requires immediate action to assure necessary protection of public health and the environment. An ordinary regulation will not suffice and this emergency regulation is necessary to protect groundwaters and surface waters of the Commonwealth from degradation which may adversely affect public health and the environment. This revision package provides for the planning, siting, design, construction, operation and closure of solid waste management facilities and for the development of solid waste management systems at the state and local levels. Standards contained in the current regulations have been determined to be inadequate to sufficiently protect public health and the environment. In addition, many communities are facing a crisis situation regarding the disposal of their wastes and the cabinet cannot delay addressing these emergency situations until completion of the ordinary regulation review process. This emergency regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on January 15, 1990.

WALLACE G. WILKINSON, Governor
CARL H. BRADLEY, Secretary

NATURAL RESOURCES & ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 48:200E. 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
EFFECTIVE: January 16, 1990
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 (meq/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 16, 1990 at 10 a.m.

STATEMENT OF EMERGENCY
401 KAR 48:300E

This regulation is part of a comprehensive revision of the administrative regulations governing the disposal of solid waste and solid waste management. It has been determined that an emergency exists which requires immediate action to assure necessary protection of public health and the environment. An ordinary regulation will not suffice and this emergency regulation is necessary to protect groundwaters and surface waters of the Commonwealth from degradation which may adversely affect public health and the environment. This revision package provides for the planning, siting, design, construction, operation and closure of solid waste management facilities and for the development of solid waste management systems at the state and local levels. Standards contained in the current regulations have been determined to be inadequate to sufficiently protect public health and the environment. In addition, many communities are facing a crisis situation regarding the disposal of their wastes and the cabinet cannot delay addressing these emergency situations until completion of the ordinary regulation review process. This emergency regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on January 15, 1990.

WALLACE G. WILKINSON, Governor
CARL H. BRADLEY, Secretary

NATURAL RESOURCES & ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 48:300E. 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
EFFECTIVE: January 16, 1990
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-Methylchol-anthrene
Benz(e)acephenan-thrylene	205-99-2	Benzo(b)fluor-anthene
Benzamide, 3,5-dichloro-N-(1,1-dimethyl-2-propynyl)-	23950-58-5	Pronamide
Benz(a)anthracene	56-55-3	Benz(a)anthra-cene
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-Dinitroto-luene
Benzene, 1,1'-(2,2,2-trichloroethyli-dene)bis(4-chloro-	50-29-3	DDT
Benzene, 1,1'-(2,2,2-trichloroethyli-dene)bis(4-methoxy-	72-43-5	Methoxychlor
Benzene 1,1'-(2,2-dichloroethyli-dene)bis(4-chloro-	72-54-8	DDD
Benzene 1,1'-(2,2-dichloroethenyli-dene)bis(4-chloro-	72-55-9	DDE
Benzene 1,2-dichloro	95-50-1	o-Dichloroben-zene
Benzene 1,2,4-tri-chloro	120-82-1	1,2,4-trichloro-benzene
Benzene 1,2,4,5-tetrachloro	95-94-3	1,2,4,5-Tetra-chlorobenzene
Benzene 1,3-dichloro-	541-73-1	M-Dichloroben-zene
Benzene 1,4-dichloro-	106-46-7	p-Dichloroben-zene
Benzene 1,4-dinitro-	100-25-4	meta-Dinitroben-zene
Benzene, 2-methyl-1,3-dinitro	606-20-2	2,6-Dinitroto-luene
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	Hexachloroben-zene
Benzene, methyl	106-88-3	Toluene
Benzene, nitro	96-95-3	Nitrobenzene
Benzene, pentachloro-	608-93-5	Pentachloroben-zene
Benzene, pentachloro-nitro-	82-68-8	Pentachloroni-trobenzene
Benzeneacetic acid, 4-chloro-a-(4-chlorophenyl)-a-hydroxy-, ethyl ester	510-15-6	Chlorobenzilate
1,2-Benzenedicarbox-ylic acid, bis(2-ethylhexyl)ester	117-81-7	Bis(2-ethylhex-yl)phthalate
1,2-Benzenedicarbox-ylic acid, butyl phenylmethyl ester	85-68-7	Butyl benzyl phthalate
1,2-Benzenedicarbox-ylic acid, dibutyl ester	84-74-2	Di-n-butyl phthalate
1,2-Benzenedicarbox-ylic acid, diethyl ester	84-66-2	Diethyl phthalate
1,2-Benzenedicarbox-ylic acid, dimethyl ester	131-11-3	Dimethyl phthalate
1,2-Benzenedicarbox-ylic 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-dimethylphene-thylamine
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)fluoran-thene
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, 1,1,1'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 O-pyrazinyl ester	297-97-2	0,0-Diethyl 0,2-pyrazinyl phosphorothioate
Phosphorothioic acid, 0,0-dimethyl O-(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	Tetraethylidithiopyrophosphate
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 16, 1990 at 10 a.m.

STATEMENT OF EMERGENCY
401 KAR 47:310E

This regulation is part of a comprehensive revision of the administrative regulations governing the disposal of solid waste and solid waste management. It has been determined that an emergency exists which requires immediate action to assure necessary protection of public health and the environment. An ordinary regulation will not suffice and this emergency regulation is necessary to protect groundwaters and surface waters of the Commonwealth from degradation which may adversely affect public health and the environment. This revision package provides for the planning, siting, design, construction, operation and closure of solid waste management facilities and for the development of solid waste management systems at the state and local levels. Standards contained in the current regulations have been determined to be inadequate to sufficiently protect public health and the environment. In addition, many communities are facing a crisis situation regarding the disposal of their wastes and the cabinet cannot delay addressing these emergency situations until completion of the ordinary regulation review process. This emergency regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on January 15, 1990.

WALLACE G. WILKINSON, Governor
CARL H. BRADLEY, Secretary

NATURAL RESOURCES & ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 48:310E. 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

EFFECTIVE: January 16, 1990

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 16, 1990 at 10 a.m.

STATEMENT OF EMERGENCY
401 KAR 49:010E

This regulation is part of a comprehensive revision of the administrative regulations governing the disposal of solid waste and solid waste management. It has been determined that an emergency exists which requires immediate action to assure necessary protection of public health and the environment. An ordinary regulation will not suffice and this emergency regulation is necessary to protect groundwaters and surface waters of the Commonwealth from degradation which may adversely affect public health and the environment. This revision package provides for the planning, siting, design, construction, operation and closure of solid waste management facilities and for the development of solid waste management systems at the state and local levels. Standards contained in the current regulations have been determined to be inadequate to sufficiently protect public health and the environment. In addition, many communities are facing a crisis situation regarding the disposal of their wastes and the cabinet cannot delay addressing these emergency situations until completion of the ordinary regulation review process. This emergency regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on January 15, 1990.

WALLACE G. WILKINSON, Governor
CARL H. BRADLEY, Secretary

NATURAL RESOURCES & ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 49:010E. 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

EFFECTIVE: January 16, 1990

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 16, 1990 at 10 a.m.

STATEMENT OF EMERGENCY
401 KAR 49:060E

This regulation is part of a comprehensive revision of the administrative regulations governing the disposal of solid waste and solid waste management. It has been determined that an emergency exists which requires immediate action to assure necessary protection of public health and the environment. An ordinary regulation will not suffice and this emergency regulation is necessary to protect groundwaters and surface waters of the Commonwealth from degradation which may adversely affect public health and the environment. This revision package provides for the planning, siting, design, construction, operation and closure of solid waste management facilities and for the development of solid waste management systems at the state and local levels. Standards contained in the current regulations have been determined to be inadequate to sufficiently protect public health and the environment. In addition, many communities are facing a crisis situation regarding the disposal of their wastes and the cabinet cannot delay addressing these emergency situations until completion of the ordinary regulation review process. This emergency regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on January 15, 1990.

WALLACE G. WILKINSON, Governor
CARL H. BRADLEY, Secretary

NATURAL RESOURCES & ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 49:060E. 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
EFFECTIVE: January 16, 1990
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 16, 1990 at 10 a.m.

STATEMENT OF EMERGENCY
401 KAR 49:070E

This regulation is part of a comprehensive revision of the administrative regulations governing the disposal of solid waste and solid waste management. It has been determined that an emergency exists which requires immediate action to assure necessary protection of public health and the environment. An ordinary regulation will not suffice and this emergency regulation is necessary to protect groundwaters and surface waters of the Commonwealth from degradation which may adversely affect public health and the environment. This revision package provides for the planning, siting, design, construction, operation and closure of solid waste management facilities and for the development of solid waste management systems at the state and local levels. Standards contained in the current regulations have been determined to be inadequate to sufficiently protect public health and the environment. In addition, many communities are facing a crisis situation regarding the disposal of their wastes and the cabinet cannot delay addressing these emergency situations until completion of the ordinary regulation review process. This emergency regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on January 15, 1990.

WALLACE G. WILKINSON, Governor
CARL H. BRADLEY, Secretary

NATURAL RESOURCES & ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management

401 KAR 49:070E. 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
EFFECTIVE: January 16, 1990
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 16, 1990 at 10 a.m.

STATEMENT OF EMERGENCY
501 KAR 6:150E

In order to operate the Eastern Kentucky Correctional Complex in accordance with KRS Chapter 196, the Corrections Cabinet needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because these are new institutional policies which must be implemented immediately to allow the Eastern Kentucky Correctional Complex and to operate and to bring them into compliance with standards set by the American Correctional Association. This emergency regulation will be replaced by the ordinary administrative regulation filed with LRC on January 12, 1990 in accordance with KRS Chapter 13A.

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

CORRECTIONS CABINET

501 KAR 6:150E. Eastern Kentucky Correctional Complex.

RELATES TO: KRS Chapters 196, 197, 439
STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640
EFFECTIVE: Janaury 15, 1990
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 15, 1990 at 3 p.m.

STATEMENT OF EMERGENCY
502 KAR 45:020E

In order to continue to operate the Department of State Police in accordance with KRS Chapter 16, the Department of State Police needs to implement this emergency amended regulation. An ordinary administrative amended regulation cannot suffice because agency policy will not be accurately reflected in a timely manner nor will the department be able to apply current agency policy in its recruitment process. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with KRS Chapter 13A.

WALLACE G. WILKINSON, Governor
W. MICHAEL TROOP, Secretary

JUSTICE CABINET
Department of State Police

502 KAR 45:020E. Qualifications.

RELATES TO: KRS 16.040, 16.050
STATUTORY AUTHORITY: KRS 16.050, 16.080
EFFECTIVE: January 17, 1990
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 17, 1990 at 2 p.m.

STATEMENT OF EMERGENCY
502 KAR 45:040E

In order to continue to operate the Department of State Police in accordance with KRS Chapter 16, the Department of State Police needs to implement this emergency amended regulation. An ordinary administrative amended regulation cannot suffice because agency policy will not be accurately reflected in a timely manner nor will the department be able to apply current agency policy in its recruitment process. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with KRS Chapter 13A.

WALLACE G. WILKINSON, Governor
W. MICHAEL TROOP, Secretary

JUSTICE CABINET
Department of State Police

502 KAR 45:040E. Application.

RELATES TO: KRS 16.050
STATUTORY AUTHORITY: KRS 16.050, 16.080
EFFECTIVE: January 17, 1990
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 17, 1990 at 2 p.m.

STATEMENT OF EMERGENCY
502 KAR 45:050E

In order to continue to operate the Department of State Police in accordance with KRS Chapter 16, the Department of State Police needs to implement this emergency amended regulation. An ordinary administrative amended regulation cannot suffice because agency policy will not be accurately reflected in a timely manner nor will the department be able to apply current agency policy in its recruitment process. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with KRS Chapter 13A.

WALLACE G. WILKINSON, Governor
W. MICHAEL TROOP, Secretary

JUSTICE CABINET
Department of State Police

502 KAR 45:050E. Physical examination.

RELATES TO: KRS 16.040
STATUTORY AUTHORITY: KRS 16.080
EFFECTIVE: January 17, 1990
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 17, 1990 at 2 p.m.

STATEMENT OF EMERGENCY
502 KAR 45:060E

In order to continue to operate the Department of State Police in accordance with KRS Chapter 16, the Department of State Police needs to implement this emergency amended regulation. An ordinary administrative amended regulation cannot suffice because agency policy will not be accurately reflected in a timely manner nor will the department be able to apply current agency policy in its recruitment process. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with KRS Chapter 13A.

WALLACE G. WILKINSON, Governor
W. MICHAEL TROOP, Secretary

JUSTICE CABINET
Department of State Police

502 KAR 45:060E. Written examination.

RELATES TO: KRS 16.050
STATUTORY AUTHORITY: KRS 16.050
EFFECTIVE: January 17, 1990
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 17, 1990 at 2 p.m.

STATEMENT OF EMERGENCY
502 KAR 45:080E

In order to continue to operate the Department of State Police in accordance with KRS Chapter 16, the Department of State Police needs to implement this emergency amended regulation. An ordinary administrative amended regulation cannot suffice because agency policy will not be accurately reflected in a timely manner nor will the department be able to apply current agency policy in its recruitment process. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with KRS Chapter 13A.

WALLACE G. WILKINSON, Governor
W. MICHAEL TROOP, Secretary

JUSTICE CABINET
Department of State Police

502 KAR 45:080E. Oral interview.

RELATES TO: KRS 16.050
STATUTORY AUTHORITY: KRS 16.050
EFFECTIVE: January 17, 1990
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 17, 1990 at 2 p.m.

STATEMENT OF EMERGENCY
502 KAR 45:090E

In order to continue to operate the Department of State Police in accordance with KRS Chapter 16, the Department of State Police needs to implement this emergency amended regulation. An ordinary administrative amended regulation cannot suffice because agency policy will not be accurately reflected in a timely manner nor will the department be able to apply current agency policy in its recruitment process. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with KRS Chapter 13A.

WALLACE G. WILKINSON, Governor
W. MICHAEL TROOP, Secretary

JUSTICE CABINET
Department of State Police

502 KAR 45:090E. Background investigations.

RELATES TO: KRS 16.040, 16.050
STATUTORY AUTHORITY: KRS 16.050, 16.080
EFFECTIVE: January 17, 1990
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 17, 1990 at 2 p.m.

STATEMENT OF EMERGENCY
502 KAR 45:100E

In order to continue to operate the Department of State Police in accordance with KRS Chapter 16, the Department of State Police needs to implement this emergency amended regulation. An ordinary administrative amended regulation cannot suffice because agency policy will not be accurately reflected in a timely manner nor will the department be able to apply current agency policy in its recruitment process. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with KRS Chapter 13A.

WALLACE G. WILKINSON, Governor
W. MICHAEL TROOP, Secretary

JUSTICE CABINET
Department of State Police

502 KAR 45:100E. Psychological assessment.

RELATES TO: KRS 16.040, 16.050
STATUTORY AUTHORITY: KRS 16.050, 16.080
EFFECTIVE: January 17, 1990
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 <u>selected</u> 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 17, 1990 at 2 p.m.

STATEMENT OF EMERGENCY
502 KAR 45:110E

In order to continue to operate the Department of State Police in accordance with KRS Chapter 16, the Department of State Police needs to implement this emergency amended regulation. An ordinary administrative amended regulation cannot suffice because agency policy will not be accurately reflected in a timely manner nor will the department be able to apply current agency policy in its recruitment process. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with KRS Chapter 13A.

WALLACE G. WILKINSON, Governor
W. MICHAEL TROOP, Secretary

JUSTICE CABINET
Department of State Police

502 KAR 45:110E. Register.

RELATES TO: KRS 16.050
STATUTORY AUTHORITY: KRS 16.050
EFFECTIVE: January 17, 1990
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 <u>be a continuous register</u> [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. <u>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.</u>

Section 3. (1) <u>Selected</u> 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 17, 1990 at 2 p.m.

STATEMENT OF EMERGENCY
502 KAR 45:120E

In order to continue to operate the Department of State Police in accordance with KRS Chapter 16, the Department of State Police needs to implement this emergency amended regulation. An ordinary administrative amended regulation cannot suffice because agency policy will not be accurately reflected in a timely manner nor will the department be able to apply current agency policy in its recruitment process. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with KRS Chapter 13A.

WALLACE G. WILKINSON, Governor
W. MICHAEL TROOP, Secretary

JUSTICE CABINET
Department of State Police

502 KAR 45:120E. Appointment.

RELATES TO: KRS 16.050
STATUTORY AUTHORITY: KRS 16.050, 16.080
EFFECTIVE: January 17, 1990
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 as recommended by the board. [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 17, 1990 at 2 p.m.

STATEMENT OF EMERGENCY
904 KAR 2:015E

This emergency administrative regulation revises the cost-of-living adjustments to state supplementation recipients by increasing the amounts as follows:

A. Recipients in Personal Care Homes receive a $27 increase per month.

B. Recipients in Family Care Homes receive a $22 increase per month.

C. Recipients in Caretender situations receive the following increases: Single individual - $19; Couple (one requiring care) - $27; Couple (both requiring care) - $29.

This emergency administrative regulation adds these cost-of-living increases to be effective January 1, 1990. This emergency administrative regulation shall be replaced by an ordinary administrative regulation.

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

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

904 KAR 2:015E. Supplemental programs for the aged, blind and disabled.

RELATES TO: KRS 205.245
STATUTORY AUTHORITY: KRS 194.050
EFFECTIVE: January 18, 1990
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: January 18, 1990 at 3 p.m.

REGULATIONS AS AMENDED BY PROMULGATING AGENCY AND REVIEWING SUBCOMMITTEE

COMPILER'S NOTE: The following regulations were amended by the promulgating administrative body and the Administrative Regulation Review Subcommittee on February 5, 1990.

FINANCE AND ADMINISTRATION CABINET
Kentucky Educational Savings Plan Trust
(As Amended)

200 KAR 16:020. Definitions.

RELATES TO: KRS 164A.305
STATUTORY AUTHORITY: KRS Chapter 13A, 164A.325(10)
NECESSITY AND FUNCTION: KRS 164A.325(10) provides that the Kentucky Educational Savings Plan Trust Board shall have the power to promulgate rules and regulations to carry out and effectuate the purposes and objectives of the Kentucky Educational Savings Plan Trust (KRS Chapter 164A). KRS 164A.305(1) through (16) defines certain terms and words, but does not define other terms and words which are necessary to carry out and accomplish the purposes, objectives and provisions of KRS Chapter 164A ("Act"). This regulation defines additional terms and words which shall be interpreted and applied in a uniform manner, used in the participation agreement forms, notices and other instruments related to the administration of the trust.

Section 1. Definitions. The language used in the administration of the trust contains some legal and technical terms as well as everyday terms which, of necessity, have specialized meaning. The following definitions shall be controlling in the interpretation and application of these words and phrases, except where the context clearly requires another interpretation:

(1) The term "academic period" shall mean one-eighth (1/8) of eight (8) semesters or one-twelfth (1/12) of twelve (12) quarters at a four (4) year institution; one-fourth (1/4) of four (4) semesters or one-sixth (1/6) quarters at a two (2) year institution; or an equivalent period for a vocational technical institution.

(2) The word "account" shall denote the account in the program fund established and maintained under the trust for a beneficiary;

(3) The term "account balance" shall mean the fair market value of an account as of the accounting date;

(4) The term "accounting date" shall mean the date, not later than the last business day of each quarter as determined by the program administrator;

(5) The term "administrative fee" shall mean the fee charged by the trust on cancellation or termination, which is the lesser of two (2) percent of the amount refunded or twenty-five (25) dollars, or for multiple substitution of beneficiaries, twenty-five (25) dollars;

[(6) "Board expense" shall mean the actual and necessary expenses incurred by the board in connection with trust business;]

(6) [(7)] The term "control account" shall mean the account established for each beneficiary, with one (1) or more subsidiary accounts;

(7) [(8)] The term "designated date" shall mean the date on which each beneficiary is eligible to be designated in a participation agreement;

(8) [(9)] "Effective date" shall mean the date which a participant may enter into a participation agreement with the trust, which is on or after July 1, 1989;

(9) [(10)] The term "general unrestricted endowment income" shall mean the investment income derived from the endowment fund which benefits are paid for a beneficiary attending an institution in the Commonwealth;

(10) [(11)] The words "hardship" or "emergency" shall denote those circumstances and conditions of a sudden nature, including catastrophic illness, which deprive the participant or his dependent from the basic necessities or comforts of life or proper health care;

(11) [(12)] The term "investment income" shall mean the earnings from the investments in the program fund and the endowment fund;

(12) [(13)] The term "investment loss" shall mean a loss from the investments in the program fund and the endowment fund;

(13) [(14)] The term "Kentucky ties" shall mean participants or beneficiaries who have contact or ties with the Commonwealth, such as current or former residence or employment in the Commonwealth, or family members with current or former residence in the Commonwealth;

(14) [(15)] The term "minimum rate of return" shall mean the minimum earnings of four (4) percent guaranteed by the trust on payments made by the participant;

(15) [(16)] "Notice to delay benefits under participation agreement" shall mean the form prescribed by the trust which a participant completes to delay benefits under a participation agreement after the beneficiary has attained the age of eighteen (18);

(16) [(17)] "Notice to extend payments under participation agreement" shall mean the form prescribed by the trust which a participant completes to extend payments under a participation agreement beyond the beneficiary's age of eighteen (18);

(17) [(18)] "Notice to increase or [/] decrease payments under participation agreement" shall mean the form prescribed by the trust which a participant completes to increase or decrease payments under a participation agreement;

(18) [(19)] "Notice to preauthorize debit" shall mean the form prescribed by the trust which a participant completes to notify the participant's financial institution to debit or charge the participant's checking or savings account for payments due under the participation agreement;

(19) [(20)] "Notice to substitute beneficiary" shall mean the form prescribed by the trust which a participant completes to substitute a beneficiary;

(20) [(21)] "Notice to terminate the participation agreement" shall mean the form prescribed by the trust which a participant completes to terminate a participation agreement under the trust;

(21) [(22)] "Notice to use trust benefits" shall mean the form prescribed by the trust

which a participant completes to notify the trust of the date benefits are to begin;
(22) [(23)] "Notice to withhold payments from payroll" shall mean the form prescribed by the trust which a participant completes to direct the participant's employer to withhold payments from the participant's payroll check and forward that amount to the trust;
(23) [(24)] The word "payments" shall denote the money paid by the participant to the trust under the participation agreement;
(24) [(25)] The term "payment book" shall mean the book which contains individual coupons, designating the amount and due date of each payment;
(25) [(26)] The terms "property settlement agreement" or "decree of dissolution by the court" shall mean the agreement or judgment approved or entered by a court of competent jurisdiction which sets forth the participant's right, if any, to the participant's interest in the participation agreement;
(26) [(27)] The term "restricted endowment income" shall mean the investment income from the endowment fund which may be distributed as benefits only to a particular group or class of beneficiaries, such as the beneficiaries of participants who are employees or members of a particular organization;
(27) [(28)] The term "trust year" shall mean the fiscal year beginning July 1 and ending the following June 30 of each year for purposes of the calculation of benefits.

L. ROGERS WELLS, JR., Chairman
APPROVED BY AGENCY: November 14, 1989
FILED WITH LRC: November 28, 1989 at 11 a.m.

FINANCE & ADMINISTRATION CABINET
Kentucky Educational Savings Plan Trust
(As Amended)

200 KAR 16:030. Eligibility of beneficiary and participant.

RELATES TO: KRS 164A.330(4)
STATUTORY AUTHORITY: KRS Chapter 13A, 164A.325(10), 164A.380
NECESSITY AND FUNCTION: KRS 164A.380 provides that this Act shall be construed liberally in order to effectuate its legislative intent and the powers granted shall be broadly interpreted to effectuate such intent and purposes. KRS 164A.330(4) provides that a beneficiary in a participation agreement may be designated from date of birth to age fifteen (15). This regulation defines the term "Kentucky ties", establishes the eligibility criteria for a beneficiary and a participant and the proof of age required for a beneficiary to participate in the participation agreement.

Section 1. Definition. (1) "Beneficiary" (as defined in KRS 164A.305).
(2) "Designation date" shall mean the date on which each beneficiary is eligible to be designated in a participation agreement.
(3) "Kentucky ties" shall mean participants or beneficiaries who have contacts or ties with the Commonwealth, such as current or former residence, or employment in the Commonwealth, or family members with current or former residence in the Commonwealth.
(4) "Participant" (as defined in KRS 164A.305).
(5) "Participation agreement" (as defined in KRS 164A.305).
(6) "Trust" (as defined in KRS 164A.305).

Section 2. Beneficiary Eligibility. A beneficiary may be a resident of any state who, on the designation date, **has** [is less than fifteen (15) years old. Either a participant or a beneficiary shall have] "Kentucky ties".

Section 3. Proof of Age. A participant shall, on signing a participation agreement, provide the trust with proof of the beneficiary's age, in the form of a birth certificate or such other record as the trust may require.

Section 4. Participant Eligibility. A participant may be a resident of any state who, on signing the participation agreement, has [attained the age of eighteen (18). Either a participant or a beneficiary shall have] "Kentucky ties".

L. ROGERS WELLS, JR., Chairman
APPROVED BY AGENCY: November 14, 1989
FILED WITH LRC: November 28, 1989 at 11 a.m.

FINANCE & ADMINISTRATION CABINET
Kentucky Educational Savings Plan Trust
(As Amended)

200 KAR 16:040. Residency classification for tuition purposes.

RELATES TO: KRS 164A.305(15), (16), 164A.330(9)
STATUTORY AUTHORITY: KRS Chapter 13A, 164A.325(10)
NECESSITY AND FUNCTION: KRS 164A.305(15) provides that "vested participation agreement" means a participation agreement which has been in full force and effect during the vestment period without default. KRS 164A.305(16) provides that "vestment period" means eight (8) continuous years of residency in the Commonwealth while participating in the trust. KRS 164A.330(9) requires that each participation agreement shall provide that for a vested participation agreement, the beneficiary shall be considered a resident of the Commonwealth for tuition purposes if the beneficiary enrolls in an institution of higher education in Kentucky prior to enrollment in any other educational institution. This regulation is necessary not only to clarify, interpret and to establish the standards for residency of a beneficiary for tuition purposes, who would not otherwise be classified as a resident except for participating in the trust, but to establish proof of residency of a beneficiary.

Section 1. Definitions. (1) "Beneficiary" (as defined in KRS 164A.305).
(2) "Institution of higher education" or "institution" (as defined in KRS 164A.305).
(3) "Trust" (as defined in KRS 164A.305).
[(4) "Vested participation agreement" (as defined in KRS 164A.305).]
[(5) "Vestment period" (as defined in KRS 164A.305).]

[Section 2. Residency. To be classified as a resident for tuition purposes, a beneficiary who has a vested participation agreement shall be considered a resident of the Commonwealth if the

beneficiary has been a resident during the vestment period and enrolls in an institution of higher education in Kentucky prior to enrollment in any institution outside the Commonwealth.]

Section 2. [3.] Proof of Residency. The beneficiary shall, on enrolling in an institution, provide the trust with proof of residency, in the form of school transcripts from a school or schools in the Commonwealth or such other records as the trust may require.

L. ROGERS WELLS, JR., Chairman
APPROVED BY AGENCY: November 14, 1989
FILED WITH LRC: November 28, 1989 at 11 a.m.

FINANCE & ADMINISTRATION CABINET
Kentucky Educational Savings Plan Trust
(As Amended)

200 KAR 16:050. Substitution of a beneficiary.

RELATES TO: KRS 164A.325(6), 164A.330(7), (8), 164A.340
STATUTORY AUTHORITY: KRS Chapter 13A, 164A.325(10), 164A.380
NECESSITY AND FUNCTION: KRS 164A.330(7), (8) and 164A.340 establishes the statutory framework for the substitution of a beneficiary, and KRS 164A.325(6) provides, in pertinent part, that the trust may promulgate, impose and collect administrative fees and charges in connection with the transactions of the trust. KRS 164A.340 provides, in pertinent part, for the adjustment of payments or benefits in the event that a substituted beneficiary is eligible for enrollment at an institution on a date earlier than the original beneficiary. This regulation establishes the notice provision for substitution of a beneficiary and administrative fee in the event of multiple substitutions. In addition, this regulation is necessary to clarify and establish, respectively, the obligations of the participant and the trust in the event that the substituted beneficiary is older or younger than the original.

Section 1. Definitions. (1) "Administrative fee" shall mean the fee charged by the trust on cancellation or termination[, which is the lesser of two (2) percent of the amount refunded or twenty-five (25) dollars, or for multiple substitution of beneficiaries, twenty-five (25) dollars].
(2) "Beneficiary" (as defined in KRS 164A.305).
(3) "Benefits" (as defined in KRS 164A.305).
(4) "Endowment fund" (as defined in KRS 164A.305).
(5) "Institution" (as defined in KRS 164A.305).
(6) "Notice to substitute beneficiary" shall mean the form prescribed by the trust which a participant completes to substitute a beneficiary.
(7) "Participant" (as defined in KRS 164A.305).
(8) "Participation agreement" (as defined in KRS 164A.305).
(9) "Program fund" (as defined in KRS 164A.305).
(10) "Trust" (as defined in KRS 164A.305).

Section 2. (1) The fee for cancellation or termination of a participation agreement shall be the lesser of:
(a) Two (2) percent of the amount refunded; or
(b) Twenty-five (25) dollars.
(2) The fee for multiple substitutions of beneficiaries shall be twenty-five (25) dollars.

Section 3. [2.] Substitution. A participant may substitute a beneficiary at any time. If a participant desires to substitute the beneficiary, then a participant shall give written notice to the trust, by submitting a "notice to substitute beneficiary".
(1) Younger beneficiary. If a substituted beneficiary is eligible for enrollment at an institution on a date later than the original beneficiary, a participant shall give written notice to the trust, not less than 180 days before the date of the original beneficiary's admission to the institution.
(2) Older beneficiary. If a substituted beneficiary is eligible for enrollment at an institution on a date earlier than the original beneficiary, a participant shall give written notice to the trust, not less than 180 days before the date of original beneficiary's eligibility for enrollment at an institution. Either a participant shall pay to the trust a reasonable fee or cost to place a substituted beneficiary on a basis of actuarial parity with the original beneficiary, or the benefits shall be paid at a reduced rate equal to the rate of return generated by the program fund and endowment fund during such lesser time period.
(3) Multiple. If a participant substitutes a beneficiary under a participation agreement more than twice, then the trust shall require the participant to pay the administrative fee.

L. ROGERS WELLS, JR., Chairman
APPROVED BY AGENCY: November 14, 1989
FILED WITH LRC: November 28, 1989 at 11 a.m.

FINANCE & ADMINISTRATION CABINET
Kentucky Educational Savings Plan Trust
(As Amended)

200 KAR 16:080. Benefits payable from the program fund.

RELATES TO: KRS 164A.310(8), 164A.330(5), 164A.335(3)
STATUTORY AUTHORITY: KRS Chapter 13A, 164A.325(10)
NECESSITY AND FUNCTION: KRS 164A.310(8), 164.330(5) and 164A.335(3) establishes the statutory framework for payment of benefits to an institution from the program fund. This regulation is necessary to establish the maximum benefits payable in any academic period, the duration of the payments, the payment of benefits for a beneficiary residing off campus and the notice provisions in the event of a refund of the payments for nonuse or unused benefits from the program fund.

Section 1. Definitions. (1) "Academic period" shall mean one-eighth (1/8) of eight (8) semesters or one-twelfth (1/12) of twelve (12) quarters at a four (4) year institution; one-fourth (1/4) of four (4) semesters or one-sixth (1/6) of six (6) quarters at a two (2) year institution; or an equivalent period for a vocational technical institution.
(2) "Account" shall denote the account in the program fund established and maintained under the trust for a beneficiary.

(3) "Administrative fee" shall mean the fee charged by the trust on cancellation or termination[, which is the lesser of two (2) percent of the amount refunded or twenty-five (25) dollars].
(4) "Beneficiary" (as defined in KRS 164A.305).
(5) "Benefits" (as defined in KRS 164A.305).
(6) "Endowment fund" (as defined in KRS 164A.305).
(7) "Higher education costs" (as defined in KRS 164A.305).
(8) "Institution" (as defined in KRS 164A.305).
(9) "Investment income" shall mean the earnings from the investments in the program fund.
(10) "Notice to delay benefits under participation agreement" shall mean the form prescribed by the trust which a participant completes to extend payments under a participation agreement beyond the beneficiary's age of eighteen (18).
(11) "Participant" (as defined in KRS 164A.305).
(12) "Payments" shall denote the money paid by the participant to the trust under the participation agreement.
(13) "Program fund" (as defined in KRS 164A.305).
(14) "Trust" (as defined in KRS 164A.305).

Section 2. (1) The fee for cancellation or termination of a participation agreement shall be the lesser of:
(a) Two (2) percent of the amount refunded; or
(b) Twenty-five (25) dollars.
(2) The fee for multiple substitutions of beneficiaries shall be twenty-five (25) dollars.

Section 3. [2.] Maximum Benefits. Each payment of benefits made to the institution may not exceed the beneficiary's entitlement in the program fund in any academic period, as such entitlement bears to the total semesters or quarters of the institution attended by the beneficiary.

Section 4. [3.] Duration. The payment of benefits shall begin on a beneficiary's enrollment in an institution and continue throughout each academic period or until such benefits have been exhausted, whichever first occurs.

Section 5. [4.] Beneficiary Residing Off Campus. If a beneficiary resides off campus, then the trust shall pay to the beneficiary, in addition to the amounts paid to the institution, an amount equal to the cost of lodging and meal ticket for an academic semester as established by said institution for on-campus students. However, the amounts paid to the institution and the beneficiary shall not exceed the amount payable in any academic period from the program fund and the endowment fund or exceed the higher education costs for that institution.

Section 6. [5.] Nonenrollment. If a beneficiary does not enroll in an institution after he attains the age of eighteen (18), or a participant does not provide the trust with a "notice to delay benefits under participation agreement", then the trust shall refund the payments and investment income on the payments in accordance with the Act.

Section 7. [6.] Unused Benefits. (1) During academic period. If a beneficiary's higher education costs are less than the benefits due for any academic period, then that portion of the unused benefits shall accumulate to the beneficiary's account. The unused benefits plus the beneficiary's entitlement in the program fund in any academic period may be paid to the institution for the beneficiary in the next succeeding academic period.
(2) After graduation. If the beneficiary graduates from an institution, and a balance in the beneficiary's account exists, then the trust shall pay the balance of the payments to the participant, and the balance of the investment income to the beneficiary. The trust shall make the payment from the program fund within sixty (60) days from the date of the beneficiary's graduation, and the administrative fee shall be deducted from the payment in accordance with the provisions of the Act.

L. ROGERS WELLS, JR., Chairman
APPROVED BY AGENCY: November 14, 1989
FILED WITH LRC: November 28, 1989 at 11 a.m.

FINANCE & ADMINISTRATION CABINET
Kentucky Educational Savings Plan Trust
(As Amended)

200 KAR 16:090. Benefits payable from the endowment fund.

RELATES TO: KRS 164A.335(2), (3)
STATUTORY AUTHORITY: KRS Chapter 13A, 164A.325(10), 164A.380
NECESSITY AND FUNCTION: KRS 164A.335(2) and (3) establish the statutory framework for the endowment fund and separates the fund into two (2) separate income funds, identified as the general unrestricted endowment fund and the restricted endowment income fund. KRS 164A.335(3) provides, in pertinent part, a beneficiary's pro rata interest in the investment income derived by the endowment fund in any year in which benefits are paid under the participation agreement to the institution. This regulation is necessary to not only clarify a beneficiary's entitlement to the general unrestricted endowment income and the restricted endowment income, if any, as established by the Act, but to establish the beneficiary's entitlement to the unused general unrestricted endowment income in any trust year where there is a partial distribution or no distribution of this income.

Section 1. Definitions. (1) "Academic period" shall mean one-eighth (1/8) of eight (8) semesters or one-twelfth (1/12) of twelve (12) quarters at a four (4) year institution; one-fourth (1/4) of four (4) semesters or one-sixth (1/6) of six (6) quarters at a two (2) year institution; or an equivalent period for a vocational technical institution.
(2) "Beneficiary" (as defined in KRS 164A.305).
(3) "Benefits" (as defined in KRS 164A.305).
(4) "Endowment fund" (as defined in KRS 164A.305).
(5) "General unrestricted endowment income" shall mean the investment income derived from the endowment fund which benefits are paid for a beneficiary attending an institution in the Commonwealth.

(6) "Higher educational costs" (as defined in KRS 164A.305).
(7) "Institution" (as defined in KRS 164A.305).
(8) "Investment income" shall mean the earnings from the investments in the endowment fund.
(9) "Participant" (as defined in KRS 164A.305).
(10) "Payments" shall denote the money paid by the participant to the trust under the participation agreement.
(11) "Program fund" (as defined in KRS 164A.305).
(12) "Restricted endowment income" shall mean the investment income from the endowment fund which may be distributed as benefits only to a particular group or class of beneficiaries, such as the beneficiaries of participants who are employees or members of a particular organization.
(13) "Trust" (as defined in KRS 164A.305).
(14) "Trust year" means the fiscal year beginning July 1 and ending the following June 30 of each year for purposes of the calculation of benefits.

Section 2. General Unrestricted Endowment Income. (1) Each beneficiary attending a Kentucky institution is entitled to receive a pro rata interest in the general unrestricted endowment income in any year in which benefits are paid to an institution. The amounts paid from the general unrestricted endowment income to an institution shall be in the ratio of the payments made by each participant and investment income earned to date thereon bears to the principal amount of all money, funds and securities then held in the program fund.
(2) When the trust makes a payment from the program fund, the trust shall also simultaneously pay from the general unrestricted endowment income, such proportionate amount to the Kentucky institution, and such payment shall be used for payment of higher education costs of the beneficiary. Each payment made to the institution shall not exceed the beneficiary's entitlement in the general unrestricted endowment income in any academic period, as such academic period bears to the total semesters or quarters to that institution.

Section 3. Restricted Endowment Income. If the beneficiary qualifies for benefits from the restricted endowment income of the endowment fund, then the beneficiary shall receive benefits in accordance with the terms and conditions agreed to by the trust and the donor. The benefits from the restricted endowment income are calculated without regards to the general unrestricted endowment income, and are in addition to the beneficiary's pro rata share of benefits from the general unrestricted endowment income.

[Section 4. Kentucky Institution. A beneficiary who does not attend a Kentucky institution, shall have no right to the endowment fund.]

Section 4. [5.] Unused General Unrestricted Endowment Income in Trust Year. If there is a partial distribution of the general unrestricted endowment income in any trust year, then the unused portion shall accumulate and be a part of the general unrestricted endowment income for the succeeding trust year. If there is no distribution of benefits from the general unrestricted endowment income in any trust year, then the unused income for that year shall be added to, and made a part of the principal of the general unrestricted endowment fund.

L. ROGERS WELLS, JR., Chairman
APPROVED BY AGENCY: November 14, 1989
FILED WITH LRC: November 28, 1989 at 11 a.m.

GENERAL GOVERNMENT CABINET
Kentucky Board of Pharmacy
(As Amended)

201 KAR 2:030. Reciprocity; temporary license.

RELATES TO: KRS Chapter 315
STATUTORY AUTHORITY: KRS 315.191, 315.210
NECESSITY AND FUNCTION: This regulation is to provide for interstate reciprocity of pharmacists licensure. It establishes uniform minimum standards and requirements.

Section 1. "License by reciprocity" means a license to practice pharmacy issued by the Kentucky Board of Pharmacy ([hereafter referred to as the] "board") pursuant to this regulation.

Section 2. An applicant shall [must] have had the legal qualifications at the time of examination and registration in the state from which he applies which would enable him to qualify for registration by the board.

Section 3. [2.] An applicant who has failed a Kentucky Board of Pharmacy examination shall not be eligible for license by reciprocity. The board shall [will] consider only those official applications for reciprocity approved by the board. An applicant shall [must] include the reciprocal registration fee fixed by the board with his application for reciprocal licensure.

Section 4. [3.] The board may accept reciprocity from states which are active members of the National Association of Boards of Pharmacy and which under equivalent conditions will grant reciprocal licensure to pharmacists duly licensed by examination by the board. The applicant shall [must] be in good standing in the state from which he applies.

Section 5. [4.] All applicants for license by reciprocity shall [must] appear in person before the board or a member thereof, for an examination before any certificate of registration will be issued. Applicants shall be required to take an examination in jurisprudence. An applicant who has not actively engaged in the practice of pharmacy as a registered pharmacist during the year preceding the time of filing the application may be required to take a practical examination.

[Section 5. The purpose of a temporary license is to enable applicants for license by reciprocity to be able to procure legal authorization to begin practicing in Kentucky without awaiting a meeting of the board. It is not intended that a temporary license shall be a substitute for a pharmacist license.]

[Section 6. If [Whenever] an applicant for a license by reciprocity satisfies the board that he has met all the requirements [prescribed therefor] and [the] regulations [of the board thereunder], the executive director [secretary] may issue, on behalf of the board, a temporary license to such person for the practice of pharmacy. No person who is an applicant for license by examination in Kentucky shall be issued a temporary license.]

[Section 7. A temporary license issued pursuant to this regulation shall entitle the holder to practice pharmacy for a period of not more than six (6) months from issuance [thereof], unless the temporary license is sooner cancelled by the executive director [secretary]. Applicants are admonished not to accept positions as pharmacists or attempt to practice as pharmacists until a temporary license is received.]

[Section 8. The executive director [secretary] may at any time, and for reasons deemed sufficient, without hearing, cancel any [or all] temporary licenses in effect and shall immediately cancel any temporary license in effect upon direction by the board or upon denial by the board of the holder's application for a pharmacist license. No temporary license issued pursuant to this regulation shall create a permanent or vested property interest in the licensee.]

[Section 9. The executive director [secretary] of the board shall prepare or cause to be prepared all forms which he considers desirable and appropriate in connection with temporary licenses. Each temporary license shall expressly state the date of issuance and that it is for a definite period not in excess of six (6) months from the date of issuance.]

Section 6. [10.] The board reserves the right to deny any reciprocal application for a good and just reason, and if imposed [in the event of so doing], seventy-five (75) percent of the fee paid to the board [it] shall [will] be refunded.

RICHARD E. MURRAY, President
RICHARD L. ROSS, Executive Director
APPROVED BY AGENCY: October 11, 1989
FILED WITH LRC: October 11, 1989 at 11 a.m.

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

704 KAR 20:550. Professional school certificate for college faculty.

RELATES TO: KRS 161.020, 161.025, 161.030
STATUTORY AUTHORITY: KRS 161.030
NECESSITY AND FUNCTION: KRS 161.020, 161.025 and 161.030 require that teachers and other professional personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board for Elementary and Secondary Education. This regulation, which has been reviewed and recommended by the Kentucky Council on Teacher Education and Certification, establishes an appropriate certificate and relates to the corresponding standards and procedures for issuing of a professional school certificate for a college faculty member.

Section 1. (1) The professional school certificate for college faculty shall be issued for a specific teaching or administrative assignment in a school district for a period not exceeding one (1) year to college faculty on recommendation of the local school district superintendent and the president of the institution of higher education at which the faculty member is employed. Only regular, tenure-track faculty at an institution of higher education approved by the State Board for Elementary and Secondary Education, with at least one (1) year of teaching experience at the college level shall be eligible for such certification.

(2) The faculty member shall hold either a doctoral degree, or a master's degree and documented expertise in the specific teaching or administrative assignment. [The local school district in which the faculty member is to serve shall determine the appropriate academic qualifications and any additional specialized training that would be required of the faculty member being recommended.]

(3) The faculty member certified under the provision of this regulation shall not be employed in the place of a fully certified teacher who is available for the assignment.

(4) The building principal or other appropriate administrator in the local district in which the faculty member serves shall supervise and evaluate the certified faculty member.

Section 2. For purposes of the Foundation Program, the salary rank of the college faculty certified under this regulation shall be determined in accordance with KRS 157.390.

Section 3. The professional school certificate for college faculty may be renewed upon recommendation of the local school superintendent and the appropriate college or university president for additional one (1) year periods.

Section 4. Teaching experience acquired while serving in a teaching assignment with a certificate issued under the provisions of this regulation shall not be used to satisfy the beginning teacher testing and internship requirements.

Section 5. The Division of Teacher Education and Certification shall present an evaluation report to the Council on Teacher Education and Certification at the end of three (3) years following approval of this regulation by the State Board for Elementary and Secondary Education. The report shall include the following information:

(a) Number of college faculty to whom certificates have been issued under this regulation and their college affiliation;

(b) Names of school districts in which the certified faculty have served;

(c) Types of assignments for which

certificates have been issued and the duration of these certificates;
(d) Responses of local school superintendents and college and university presidents to the certification experience;
(e) Responses of faculty members to the experience; and
(f) Other evaluative measures as appropriate.

Section 6. On the basis of the evaluation report, the council shall make recommendations to the State Board for Elementary and Secondary Education regarding continuation or repeal of the certificate established under this regulation.

HENRY E. POGUE, IV, Chairman
APPROVED BY AGENCY: May 3, 1989
FILED WITH LRC: May 15, 1989 at 10 a.m.

PUBLIC PROTECTION & REGULATION CABINET
Public Service Commission
(As Amended)

807 KAR 5:054. Small power production and cogeneration.

RELATES TO: KRS Chapter 278, Title 18 CFR Part 292.203, 292.204, 292.205, 292.206
STATUTORY AUTHORITY: KRS 278.040(3), Title 18 CFR Part 292.203, 292.204, 292.205, 292.206
NECESSITY AND FUNCTION: Under Title II of the Public Utility Regulatory Policies Act of 1978, the Federal Energy Regulatory Commission (FERC) was required to adopt rules to encourage cogeneration and small power production by requiring electric utilities to sell electricity to qualifying cogeneration and small power production facilities and purchase electricity from such facilities. Section 210(f) of this Act requires the state regulatory authority with jurisdiction over electric utilities to implement the FERC rules. As the state regulatory authority for Kentucky, the Public Service Commission proposes to implement those rules.

Section 1. [2.] Definitions. [(1) "Commission" means the Kentucky Public Service Commission.]
(1) [(7)] "Avoided costs" means [the] incremental costs to an electric utility of electric energy or capacity or both which, if not [but] for the purchase from the qualifying facility [or facilities], the [such] utility would generate itself or purchase from another source.
(2) [(10)] "Back-up power" means electric energy or capacity supplied by an electric utility to replace energy ordinarily generated by a facility's own generation equipment during an unscheduled outage of the facility.
(3) "Cogeneration facility" means equipment used to produce electricity and another form of useful energy which is used for industrial purposes or commercial heating or cooling purposes through [the] sequential use of input energy and which facility meets criteria at Title 18 CFR Part 292.203(b) and 292.205, as published in the Federal Register on March 20, 1980 (45 F.R. 17959) [and [herein] incorporated by reference].
(4) [(8)] "Interconnection costs" means the reasonable costs of connection, switching, metering, transmission, distribution, safety provisions and administrative costs incurred by the electric utility directly related to [the] installation and maintenance of [the] physical facilities necessary to permit interconnected operations with a qualifying facility, to the extent those [such] costs are in excess of [the] corresponding costs which the utility would have incurred if it had not engaged in interconnected operations but instead had generated an equivalent amount of electric energy itself or purchased an equivalent amount of electric energy or capacity or both from other sources. Interconnection costs do not include any costs included in [the] calculation of avoided costs.
(5) [(11)] "Interruptible power" means electric energy or capacity supplied by an electric utility subject to interruption by the electric utility under specified conditions.
(6) [(12)] "Maintenance power" means electric energy or capacity supplied by an electric utility during scheduled outages of the qualifying facility.
(7) [(5)] "Purchase" means [the] purchase of electric energy or capacity or both from a qualifying facility by an electric utility.
(8) [(2)] "Qualifying facility" means a cogeneration facility as defined in this regulation [herein], construction of which was commenced on or after November 9, 1978, or a small power production facility as defined in this regulation [herein], construction or substantial renovation of which was begun on or after November 9, 1978, neither of which is owned in equity interest greater than fifty (50) percent by a person primarily engaged in generation of electric power other than as described in these rules.
(9) [(6)] "Sale" means [the] sale of electric energy or capacity or both by an electric utility to a qualifying facility.
(10) [(4)] "Small power production facility" means an arrangement of equipment for the production of electricity with capacity no greater than eighty (80) megawatts, which equipment is located within a one (1) mile radius or, if [in the case of] hydroelectric facilities, on the same impoundment of water, and which equipment is [must be] powered at least seventy-five (75) percent by biomass, waste, renewable resources, or any combination thereof and not more than twenty-five (25) percent by coal or oil or natural gas or any combination thereof and which meets criteria at Title 18 CFR Part 292.204 as published in the Federal Register on March 20, 1980 (45 F.R. 17959) [herein] [incorporated by reference in this regulation].
(11) [(9)] "Supplementary power" means electric energy or capacity supplied by an electric utility, regularly used by a qualifying facility in addition to that which the facility generates itself.
(12) [(13)] "System emergency" means a condition on a utility's system which may [is liable to] result in imminent significant disruption of service to customers or may [is] imminently [liable to] endanger life or property.

Section 2. [1.] General. [It is the purpose of] This regulation [to] sets forth the manner in which the Public Service Commission will discharge [the] duties conferred upon it by Title II of the Public Utility Regulatory Policies Act of 1978.

Section 3. Applicability. This regulation shall apply to any electric utility, subject to the jurisdiction of the commission, which purchases from or sells to any qualifying facility.

Section 4. Criteria for Qualifying Facility. (1) Criteria for qualification of small power production facilities and cogeneration facilities constructed on or after November 9, 1978, are the same as those adopted by the Federal Energy Regulatory Commission including Title 18 CFR Parts 292.203, 292.204, 292.205, and 292.206 as published in the Federal Register March 20, 1980 (45 F.R. 17959) [and [herein] incorporated by reference in this regulation].

(2) The qualifying status of small power production facilities and cogeneration facilities, the construction of which was commenced prior to November 9, 1978, but which were not selling power to the interconnected utility under an existing contract as of November 9, 1978, will be determined under this regulation on a case-by-case basis.

(3) Small power production facilities and cogeneration facilities constructed prior to November 9, 1978, but which were selling power to their interconnected utility under an existing contract on that date will not be considered qualifying facilities. Upon [At the] expiration of the power sales contract between a small power production or cogeneration facility and the electric utility, the commission will determine the qualifying status of the facility under this regulation on a case-by-case basis.

Section 5. (1)(a) All electric utilities with annual retail sales greater than 500 million kilowatt hours shall provide data to the commission from which avoided costs may be derived not later than June 30, 1982, and not less often than every two (2) years thereafter unless otherwise determined by the commission.

(b) In the case of a utility required to purchase all of its electricity from a wholesale supplier by contract, the utility shall file the contracts under which its capacity and energy are purchased, in addition to data provided by the supplying utility required by subsection (2) of this section. [The data required under subsection (2) of this section shall be provided by the supplying utility.]

(2) Each electric utility as described in subsection (1) of this section shall file with the commission and shall maintain for public inspection the following data:

(a) [The] Estimated avoided cost on the electric utility's system, solely with respect to the energy component, for various levels of purchases from qualifying facilities. Such levels of purchases shall be stated in blocks of not more than 100 megawatts for systems with peak demand of 1,000 megawatts or more, and in blocks equivalent to not more than ten (10) percent of [the] system peak demands for systems with peak demand of less than 1,000 megawatts. [The] Avoided costs shall be stated on a cents per kilowatt-hour basis during daily, seasonal peak and off-peak periods, by year, for the current calendar year, and each of the next five (5) years.

(b) The electric utility's plan for [the] addition of capacity by amount and type, for purchases of firm energy and capacity, and for capacity retirements for each year during the succeeding ten (10) years.

(c) [The] Estimated capacity costs at [the] completion of [the] planned capacity additions and planned capacity firm purchases, on the basis of dollars per kilowatt, and the associated energy cost of each unit, expressed in cents per kilowatt-hour. These costs shall be expressed separately for each individual unit and individual planned firm purchases.

(3)(a) Any data submitted by an electric utility beginning with the scheduled June 30, 1982, data shall be subject to review by the commission.

(b) The electric utility has the burden of proof to justify the data it supplies.

Section 6. Electric Utility Obligations. (1) Each electric utility shall purchase any energy and capacity which is made available from a qualifying facility except as provided in subsections (2) and (3) of this section.

(2) The qualifying facility's right to sell power to the utility shall be curtailed in periods when purchases from qualifying facilities will result in costs greater than those which the utility would incur if it [did not make such purchases but instead] generated an equivalent amount of energy instead of purchasing that energy.

(3) During any system emergency, an electric utility may discontinue:

(a) Purchases from a qualifying facility if such purchases would contribute to such emergency; [and/]or

(b) Sales to a qualifying facility if [provided that such] discontinuance is [on a] nondiscriminatory [basis].

(4) Any utility which invokes subsection (2) of this section shall provide adequate notice to the qualifying facility. In addition, the commission may require the utility to furnish documentation within ten (10) working days after [the] suspension occurs. If the utility fails to provide adequate notice or incorrectly identifies such a period, it will be required to reimburse the qualifying facility for energy [and/]or capacity or both available for delivery on a legally enforceable basis as if that [such a] period had not occurred.

(5) Rates for sale. An electric utility shall sell power to a qualifying facility upon request except as provided in subsection (3)(b) of this section. [The] Rates for sale shall [must] be just and reasonable, in the public interest and nondiscriminatory. Rates for sale which are based on accurate data and consistent system costing principles shall not be considered to discriminate against any qualifying facility to the extent that such rates apply to the utility's other customers with similar load or [other similar] cost-related characteristics. If a utility provides back-up or supplementary power to a qualifying facility, then [the] costs associated with that capacity reservation are properly recoverable from the qualifying facility.

(6) Obligation to interconnect.

(a) An electric utility is required to make any interconnection with a qualifying facility that is necessary for purchase and sale. Owners of qualifying facilities shall be required to pay for any additional interconnection costs to the extent that those [such] costs are in excess of costs [those] that the electric utility would have incurred if the qualifying facility's

output had not been purchased. Payment shall be over a reasonable period of time, and [the] terms of payment shall be a part of the contract between the electric utility and the qualifying facility.

(b) Each electric utility shall offer to operate in parallel with a qualifying facility, provided that the qualifying facility complies with applicable standards established in accordance with Section 7(6) of this regulation.

Section 7. Purchase of Output from Qualifying Facilities. (1) Qualifying facilities shall be permitted the option of either:

(a) Using [the] output of the qualifying facility to supply their power requirements and selling their surplus; or

(b) Simultaneously selling their entire output to the interconnecting utility while purchasing their own requirements from that utility.

(2) Rates for purchase of output of qualifying facility with design capacity of 100 kilowatts or less. Each electric utility shall prepare standard rates for purchases from qualifying facilities with a design capacity of 100 kilowatts or less. These rates shall be just and reasonable to the electric customer [consumer] of the utility, in the public interest and nondiscriminatory. These rates shall be based on avoided costs after consideration of the factors listed in subsection (5)(a) of this section and shall be subdivided into an energy component and a capacity component.

(a) Rates for power offered on an "as available" basis shall be based on the purchasing utility's avoided energy costs estimated at [the] time of delivery.

(b) Rates for power offered on all legally enforceable obligations shall be based at the option of the qualifying facility on either [the] avoided costs at the time of delivery or [the] avoided costs at the time the legally enforceable obligation is incurred. The capacity component shall be based on [the] supply characteristics of [the] qualifying facilities, and the aggregate capacity value of all 100 kilowatts or less facilities which supply power on a legally enforceable basis.

(3) Electric utilities shall design and offer a standard contract to qualifying facilities with a design capacity of 100 kilowatts or less. This contract shall be subject to commission [the] approval [of the commission].

(4) Rates for purchase of output of qualifying facility with design capacity over 100 kilowatts. Each electric utility shall provide a standard rate schedule for qualifying facilities with [a] design capacity over 100 kilowatts. The rate schedule shall be based on avoided costs which shall be subdivided into an energy component and a capacity component. These rates shall be used only as the basis for negotiating a final purchase rate with qualifying facilities after proper consideration has been given to factors affecting purchase rates listed in subsection (5)(a) of this section. Negotiated rates shall be just and reasonable to the electric customer [consumer] of the utility, in the public interest and nondiscriminatory. If the electric utility and qualifying facility cannot agree on the purchase rate, then the commission shall determine the rate after a hearing.

(a) Rates for power offered on an "as available" basis shall be based on the purchasing utility's avoided costs estimated at [the] time of delivery.

(b) Rates for energy or capacity or both offered on a legally enforceable basis shall be based at the option of the qualifying facility on either [the] avoided costs at the time of delivery or [the] avoided costs at the time the legally enforceable obligation is incurred.

(5) Factors affecting rates for purchase for all qualifying facilities. In determining the final purchase rate, the following factors shall be taken into account:

(a) [The] Availability of capacity or energy from a qualifying facility during the system daily and seasonal peak. The utility should consider for each qualifying facility the ability to dispatch, reliability, terms of contract, duration of obligation, termination requirements, ability to coordinate scheduled outages, usefulness of energy and capacity during system emergencies, individual and aggregate value of energy and capacity, and [the] shorter construction lead times associated with cogeneration and small power production.

(b) [The] Ability of the electric utility to avoid costs due to deferral, cancellation, or downsizing of capacity additions, and [the] reduction of fossil fuel use.

(c) [The] Savings or [the] costs resulting from line losses that would not have existed in the absence of purchases from a qualifying facility.

(6) Utility safety and system protection requirements. The qualifying facility shall provide adequate equipment to insure the safety and reliability of interconnected operations. This equipment shall be designed to protect [the] interconnect operations between the qualifying facility and the electric utility grid. If the electric utility and qualifying facility cannot agree, then the qualifying facility may apply to the commission for a determination of adequate system protection.

(7) Additional services to be provided to qualifying facilities. Upon request by [of] a qualifying facility each electric utility shall provide supplementary power, back-up power, maintenance power, and interruptible power. The commission may waive this requirement if the electric utility demonstrates that compliance with it would [result in] impair[ing] its ability to render adequate service to its other customers or would be unduly burdensome [place an undue burden on it].

(8) Wheeling. The electric utility may wheel power to another utility if the qualifying facility approves. This provision shall not eliminate the responsibility of the interconnected electric utility to purchase power from the qualifying facility if the qualifying facility does not approve the wheeling transaction. The electric utility which agrees to purchase [the] power shall pay to the qualifying facility its avoided cost connected with the transmission of this power adjusted for line losses.

(9) This regulation is not intended to restrict voluntary agreements between qualifying facilities and electric utilities. All contracts between qualifying facilities and electric utilities shall be provided to the commission for its review.

(10) Disputes. The commission's inquiry and determination shall [will] be limited to those parts of a proposed contract which are in

dispute.

GEORGE EDWARD OVERBEY, JR., Chairman
THEODORE T. COLLEY, Secretary
APPROVED BY AGENCY: December 14, 1989
FILED WITH LRC: December 15, 1989 at noon

PUBLIC PROTECTION & REGULATION CABINET
Kentucky State Racing Commission
(As Amended)

810 KAR 1:019. Disciplinary measures.

RELATES TO: KRS 230.210 to 230.360
STATUTORY AUTHORITY: KRS Chapter 13A
NECESSITY AND FUNCTION: To regulate conditions under which thoroughbred racing shall be conducted in Kentucky. The function of this regulation is to outline the disciplinary powers of the stewards and commission.

Section 1. Disciplinary Measures by Stewards. Upon the finding of a violation of these regulations [rules], or an attempted violation, on association grounds during the conduct of a meeting at which the stewards have been appointed to serve, the stewards may:

(1) Declare ineligible for racing or disqualify in a race any thoroughbred or licensed person;

(2) Suspend the license of any person involved in a violation of a [such] regulation promulgated by the commission [rule violation] for any length of time deemed appropriate by the stewards as in keeping with the seriousness of the regulation violation;

(3) Cause any person, licensed or unlicensed, found to have interfered with, or contributed toward the interference of, the orderly conduct of a race or race meeting, or person whose presence is found by the stewards to be inconsistent with maintaining the honesty and integrity of the sport of thoroughbred racing, to be excluded or ejected from association grounds or any portion of association grounds; and

(4) In the case of a license suspension, the stewards may fix in the alternative a forfeiture not to exceed $1,000, which sum the licensee may, if he so chooses, pay to the commission in lieu of the [such] imposed license suspension.

Section 2. Disciplinary Measures by Commission. Upon the finding of a violation of these regulations [rules], or an attempted violation, on any association grounds during the conduct of a race meeting in the Commonwealth, the commission may:

(1) Declare ineligible for racing or disqualify in a race any thoroughbred or licensed person;

(2) Deny, suspend, revoke, or declare void any license applied for or issued by the commission. For violations of regulations as a result of drug or alcohol abuse, the commission may in lieu of the aforementioned disciplinary actions, allow the licensee to keep his license on a probationary basis. The commission may require the licensee to enroll in a commission approved treatment program and may require proof that the licensee has avoided drugs and alcohol before returning him to a position of good standing. Each case shall be on a case-by-case basis at the discretion of the commission. During any probationary period, the licensee may have the privileges of his license restricted pursuant to the order of the commission. Failure of the licensee to comply with the order of the commission may result in further disciplinary action;

(3) Cause any person, licensed or unlicensed, found to have interfered with, or contributed toward the interference of, the orderly conduct of a race or race meeting or any person whose presence is found by the commission to be inconsistent with maintaining the honesty and integrity of the sport of thoroughbred racing, to be excluded or ejected from all association grounds or any portion of any association grounds for any length of time the commission may deem the presence of this [such] person remains inconsistent with maintaining the honesty and integrity of the sport of thoroughbred racing in the Commonwealth;

(4) Upon appeal and hearing de novo of a matter determined by the stewards, the commission may reverse or revise the [such] stewards' ruling in all respects; except as to findings of fact by the stewards as occurred during an incident to the running of a race and as to the extent of disqualification fixed by the stewards for a foul in a race; and

(5) In lieu of a license suspension or revocation, the commission may fix in the alternative a forfeiture in any amount, which sum the licensee may, if he so chooses, pay to the commission in lieu of an imposed license suspension or revocation. The [Such] forfeitures paid to the commission shall in no event in any way accrue to the personal benefit of any commissioner or stewards.

LYLE G. ROBEY, Chairman
APPROVED BY AGENCY: November 30, 1989
FILED WITH LRC: December 12, 1989 at 10 a.m.

CABINET FOR HUMAN RESOURCES
Department for Social Insurance
Division of Management & Development
(As Amended)

904 KAR 3:020. Eligibility requirements.

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

Section 1. Eligibility Requirements. In accordance with regulations promulgated by the Food and Nutrition Service (FNS), of the United States Department of Agriculture, national uniform standards of eligibility for the Food Stamp Program, composed of both financial and nonfinancial criteria, shall be utilized. Financial criteria shall consist of income and resource limitations. Nonfinancial criteria shall consist of certain technical factors.

Participation in the program shall be limited to those households whose incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet. The income eligibility standards are derived from the Office of Management and Budget's (OMB) nonfarm income poverty guidelines.

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

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

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

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

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

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

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

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

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

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

(10) Such portion of scholarships, educational grants, fellowships, deferred payment loans for education, veterans educational benefits and the like which are not excludable under Section 3(6) of this regulation.

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

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

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

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

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

(16) Portions of Indian Per Capita payments made pursuant to P.L. 98-64 in excess of $2,000 per payment per individual, effective September 1, 1989.

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

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

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

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

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

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

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

(7) All loans, including loans from private individuals as well as commercial institutions,

other than educational loans on which repayment is deferred.

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

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

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

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

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

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

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

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

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

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

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

(19) Indian Per Capita payments made pursuant to P.L. 98-64 as distribution from judgment awards and trust funds of $2,000 or less per individual per payment, effective September 1, 1989.

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

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

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

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

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

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

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

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

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

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

(a) Medical and dental care;

(b) Hospitalization or outpatient treatment and nursing care;

(c) Medication and medical supplies;

(d) Health and hospitalization premiums; and

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

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

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

(2) $2000: for all other households.

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

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

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

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

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

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

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

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

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

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

(9) Resources which have been prorated as income.

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

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

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

(13) Income which is withheld by the employer to pay certain expenses directly to a third party as a vendor payment. This income is an excludable resource only if the remainder of the withheld income is not accessible to the household at the end of the year, effective September 1, 1989.

(14) Indian Per Capita payments made pursuant to P.L. 98-64 as distribution from judgment awards and trust funds of $2,000 or less per individual per payment, effective September 1, 1989.

(15) Purchases of $2,000 or less which are made solely with Indian Per Capita payments after December 31, 1981 but prior to January 12, 1983 are totally excluded from resources, effective September 1, 1989.

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

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

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

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

(3) Citizenship and alien status. Program participation shall be limited to either citizens of the United States or eligible aliens, as outlined in 7 CFR 273.4. Individuals whose status is questionable shall be ineligible to participate until such status has been verified;

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

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

(6) Mandatory monthly reporting (MMR). Households shall be required to file monthly reports in accordance with 7 CFR 273.21 unless otherwise exempted by the appropriate federal agency.

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

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

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

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

MIKE ROBINSON, Commissioner
HARRY J. COWHERD, Secretary
APPROVED BY AGENCY: November 20, 1989
FILED WITH LRC: November 21, 1989 at 3 p.m.

PROPOSED AMENDMENTS RECEIVED THROUGH FEBRUARY 15, 1990

PERSONNEL BOARD
(Proposed Amendment)

101 KAR 1:335. Employee actions.

RELATES TO: KRS 18A.075, 18A.0751, 18A.115
STATUTORY AUTHORITY: KRS Chapter 13A, 18A.075
NECESSITY AND FUNCTION: KRS 18A.075 requires the Personnel Board to promulgate comprehensive administrative regulations consistent with the provisions of KRS 18A.005 to 18A.200. KRS 18A.0751 directs that comprehensive administrative regulations be promulgated by the Personnel Board for the classified service governing promotion, demotion, transfer, reinstatement and reemployment. KRS 18A.115 relates to promotion of career employees. [This regulation will replace 101 KAR 1:330 which includes repetition of statutory language which is being repealed.]

Section 1. Definitions; Work Station. (1) The official work station of employees assigned to an office is the street address where the office is located.

(2) The official work station of a field employee is that address to which the employee is assigned at the time of appointment to the employee's current position.

Section 2. Promotion. (1) Promotions may be interagency or intra-agency.

(2) Vacancies filled by promotion shall give equal consideration to the applicant's conduct, seniority, performance and qualifications.

(3) All vacancies not filled by promotion shall be justified in writing by the appointing authority and approved by the Commissioner of Personnel. That justification shall show why it is not practicable or not in the best interest of the service to fill the vacancy by promotion.

(4) [(2)] Any employee in the classified service, other than a career employee, may be promoted to a position in the unclassified service, but shall not have reversion rights to any position in the classified service. Any employee who was promoted or otherwise changed, with no break in service, from a position in the classified service to a position in the unclassified service prior to July 15, 1986, shall retain reversion rights as existed at the time of promotion or other action.

Section 3. Demotion. (1) Demotions for cause shall be intra-agency only.

(2) If an employee with status requests in writing that he be demoted, the appointing authority may make a voluntary demotion. The written request shall be on a form prescribed by the Commissioner of Personnel and shall include a statement of the reason for the request, the effective date of the demotion, identifying information concerning the position demoted from and to, and a waiver of the right of appeal concerning the demotion. A copy of the request shall be forwarded to the Commissioner of Personnel.

(3) Voluntary demotions may be interagency or intra-agency.

Section 4. Transfers. (1) An employee with status may be transferred from one department to another department.

(2) Transfers may be on a voluntary or involuntary basis. Unless an employee requests a transfer in writing, such transfer shall be deemed to have been made on an involuntary basis. The appointing authority shall establish a reasonable basis for selecting an employee for involuntary transfer.

(3) If the transfer is on an involuntary basis, the employee shall receive notice of his transfer prior to the effective date of transfer. Following notification of an involuntary transfer, an employee shall report for work at the work station to which transferred on the effective date of the transfer. The notice shall be in writing, shall state the effective date of the transfer, the reason for the transfer and the employee's selection for transfer, and the employee's obligation to report to the new work station. The notice shall also advise the employee that he has the right to appeal the transfer to the board within thirty (30) days of receipt of the notice, excluding the day that he received notification. When the employee is notified, copies of the notice shall be forwarded to the Commissioner of Personnel.

(4) If an involuntary transfer is to a position with a work station in a different county, the employee shall receive the notice specified in subsection (3) of this section at least thirty (30) days prior to the effective date of the transfer. The appointing authority shall pay the employee's travel expenses following transfer for up to thirty (30) days following the effective date of transfer, in accordance with administrative regulations relating to reimbursement of travel expenses, and shall pay the employee's moving expenses, if any, in accordance with the Finance and Administration Cabinet's Policy Procedure relating to Moving Expenses and Reimbursement. The notice specified in subsection (3) of this section shall advise the employee of these provisions.

(5) Involuntary transfers shall be intra-agency only.

(6) If an employee with status requests in writing that he be transferred, the appointing authority may make a voluntary transfer. The written request shall be on a form prescribed by the Commissioner of Personnel and shall include a statement of the reason for the request, the effective date of the transfer, identifying information concerning the position transferred from and to, and a waiver of the right to appeal concerning the transfer. A copy of this request shall be forwarded to the Commissioner of Personnel.

(7) Voluntary transfers may be interagency or intra-agency.

Section 5. Reinstatement. Reinstatement may be made upon request of the appointing authority and with the prior approval of the Commissioner of Personnel. Approval shall include a finding that the candidate for reinstatement meets the current qualifications for the former job classification. If the reinstatement is to a different job classification, the candidate shall pass the appropriate examination prior to reinstatement unless the employee has previously

had status in that job classification.

JAMES M. SHAKE, Chairperson
APPROVED BY AGENCY: February 9, 1990
FILED WITH LRC: February 9, 1990 at 2 p.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on March 21, 1990 at 9:30 a.m. in Room 360, Capitol Annex Building. Individuals interested in attending this hearing shall notify this agency in writing by March 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: Commonwealth of Kentucky, Personnel Board, Room 372, Capitol Annex Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Authur Hatterick, Jr.
(1) Type and number of entities affected: All state agencies with classified employees.
(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: Minimal
(2) Effects on the promulgating administrative body: None
(a) Direct and indirect costs or savings: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: None
(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: None
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: None
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. This regulation must apply to all classified employees and all state agencies with classified employees. Further tiering has not been utilized in the administrative regulations of the Personnel Board in that the board is a quasi-judicial body and as such has no latitude not granted by statute to utilize tiering methods outlined in KRS 13A.210.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. The rules concerning standards for the establishment and maintenance of a merit system for state governmental units receiving federal grants in aid were issued by the Office of Personnel Management and became effective on February 9, 1979. These rules were revised April 4, 1983, and are now codified as 5 CFR, Part 900, Subpart F, Sections 900.601 - 900.606, (48 FR 9209, March 4, 1983).
2. State compliance standards. The purpose of these regulations is to implement provisions of Title II of the Intergovernmental Personnel Act of 1970, as amended, relating to federally required merit personnel systems in state agencies. Certain federal grant programs require, as a condition of eligibility, that state agencies that receive grants establish merit personnel systems for their personnel engaged in administration of the grant-aided program. These merit personnel systems are in some cases required by specific federal grant statutes and in other cases are required by regulations of the federal grantor agencies.
3. Minimum or uniform standards contained in the federal mandate. The standards required for a merit system of personnel administration include such merit principles as:
(a) Recruiting, selecting, and advancing employees on the basis of their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment.
(b) Providing equitable and adequate compensation.
(c) Training employees, as needed, to assure high quality performance.
(d) Retaining employees on the basis of the adequacy of their performance, correcting inadequate performance, and separating employees whose inadequate performance cannot be corrected.
(e) Assuring fair treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, sex, religious creed, age or handicap and with proper regard for their privacy and constitutional rights as citizens. This "fair treatment" principle includes compliance with the federal equal employment opportunity and nondiscrimination laws.
(f) Assuring that employees are protected against coercion for partisan political purposes and are prohibited from using their official authority for the purpose of interfering with or affecting the result of an election or a nomination for office.
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The provisions of the federal merit standards recognizes fully the rights, powers and responsibility of state government and encourages innovation and allows for diversity in the design, execution and management of the system of personnel management, as provided by the Intergovernmental Personnel Act of 1970 if standards have certain specific requirements and options. The requirements and options have been exercised by the General Assembly in the enactment of KRS Chapter 18A and its delegation of duties and responsibilities to the State

Personnel Board and the Department of Personnel.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This regulation to our knowledge is not stricter that the federal mandate.

GENERAL GOVERNMENT CABINET
Kentucky Board of Medical Licensure
(Proposed Amendment)

201 KAR 9:061. Limited licenses.

RELATES TO: KRS 311.530 to 311.620, 311.990
STATUTORY AUTHORITY: KRS 311.565
NECESSITY AND FUNCTION: KRS 311.565 empowers the State Board of Medical Licensure to exercise all the administrative functions of the state in the prevention of empiricism and in the regulation of the practice of medicine and osteopathy and authorizes the board to establish requirements and standards relating thereto. The purpose of this regulation is to establish standards and guidelines regarding the issuance and renewal of limited licenses.

Section 1. Applicability. An applicant for limited license-institutional practice pursuant to KRS 311.571(3) or 311.571(4) shall not be issued a license or permit unless and until the applicant provides written proof that he or she is officially enrolled in a postgraduate training program in the Commonwealth approved by the board and submits evidence of having successfully passed Component 1 of the Federation Licensing Examination (FLEX) or achieved a passing score on the National Board of Medical Examiners (NBME) Part I or Part II examinations or is employed as a professor or researcher in medicine by either the University of Kentucky College of Medicine or the University of Louisville School of Medicine.

Section 2. Scope of Practice. A limited license-institutional practice issued to a physician in an approved postgraduate training program shall enable the holder to practice as a physician within the parameters of the training program. A limited license-institutional practice issued to a physician who is employed by one of the Commonwealth's medical schools shall enable the holder to practice as a physician to the extent necessary to perform his responsibilities of employment. The executive director may suspend any such limited license-institutional practice upon evidence that the holder has practiced outside the scope of his or her licensure. All limited license-institutional practice shall be renewable annually and shall be issued on a medical school academic year, July 1 through June 30. This regulation shall not apply to those physicians in an approved postgraduate training program, who, on the effective date of this regulation, maintain a regular license to practice medicine in the Commonwealth of Kentucky.

Section 3. Applicability and Scope of Limited Licenses Held Prior to September 1, 1972. (1) All persons who as of the effective date of this regulation hold a valid and current limited license-institutional practice issued to them prior to September 1, 1972, may continue to hold their licenses if annually renewed. The holder may only practice within the confines of the institution for which his or her limited license is designated.

(2) All persons who as of the effective date of this regulation hold a valid and current limited license-general practice issued to them prior to September 1, 1972, may continue to hold their licenses if annually renewed. The holder may only practice within the confines of the geographical area for which his or her limited license is designated.

(3) Any limited license held prior to September 1, 1972, which is not timely renewed each year by the holder shall lapse and become void and the limited license will not be reissued under any circumstance. Practice outside the scope of the limited license shall result in the temporary suspension of the license and possible discipline. The board will not issue any new limited licenses like those described in this section and a limited license-institutional practice will not be converted to a limited license-general practice.

Section 4. Extent of Practice Allowed Under Limited License. A physician holding a limited license possesses all the powers of a physician allowed by the laws of the Commonwealth, to practice within the limited scope of his or her licensure; provided, however, that the holder of a limited license-general practice shall not perform surgery unless expressly authorized by the board.

Section 5. Form of License. All limited licensees shall be issued a certificate which shall state on its face whether it is a limited license-institutional practice (KRS 311.571(3) or 311.571(4)), a limited license-institutional practice (KRS 311.565(15)) or a limited license-general practice (KRS 311.555(15)). The certificate shall also indicate the institution or geographical area to which the holder's practice is limited and any limitations on the holder's scope of practice.

Section 6. Temporary Permit. Upon satisfactory completion of all forms and the submission of all necessary information in connection with an application for limited licensure-institutional practice, the executive director may issue a temporary permit to the applicant if the executive director believes that the application satisfies all the requirements for limited licensure-institutional practice and is otherwise fit to practice. The temporary permit shall remain in effect until the holder is issued a limited license-institutional practice by the board or until cancelled, but in no event shall the temporary permit be effective longer than sixty (60) days from the date of issuance. Denial of an application for limited licensure-institutional practice by the board shall cause the cancellation of a temporary permit if held by the applicant. The temporary permit may not be renewed or reissued.

ROYCE E. DAWSON, M.D., President
APPROVED BY AGENCY: February 14, 1990
FILED WITH LRC: February 15, 1990 at 9 a.m.
PUBLIC HEARING: A public hearing on this proposed administrative regulation will be held on Wednesday, March 21, 1990, at 10 a.m., at the office of the Kentucky Board of Medical

Licensure, 400 Sherburn Lane, Suite 222, Louisville, Kentucky 40207. Those interested in attending this hearing shall notify C. William Schmidt, Executive Director, Kentucky Board of Medical Licensure, in writing, by March 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 notification of intent to attend the hearing or written comments to: C. William Schmidt, Executive Director, Kentucky Board of Medical Licensure, 400 Sherburn Lane, Suite 222, Louisville, Kentucky 40207.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: C. William Schmidt

(1) Type and number of entities affected: This proposed amendment will affect all those students in postgraduate training programs at the University of Louisville and University of Kentucky medical schools and the administrators from those medical school postgraduate training programs.

(a) Direct and indirect costs or savings to those affected: Cost savings are anticipated for both groups as student gets fee paid by training program and the program pays for academic year only.

1. First year: Cost savings to the training program will be the difference between full license fee of $120 and $65 x the number of students in the program.

2. Continuing costs or savings: Cost savings will continue yearly to the University of Louisville and University of Kentucky medical schools.

3. Additional factors increasing or decreasing costs (note any effects upon competition): No additional factors of which board is aware which would increase or decrease costs.

(b) Reporting and paperwork requirements: No additional reporting and paperwork requirements for students or administrators.

(2) Effects on the promulgating administrative body: The change to academic year schedule for students will cause the board to alter its bookkeeping procedures.

(a) Direct and indirect costs or savings: No other direct or indirect costs or savings are anticipated by the board other than minute costs associated with the change in bookkeeping procedures.

1. First year: No other direct or indirect costs or savings are anticipated.

2. Continuing costs or savings: No continued costs or savings are anticipated.

3. Additional factors increasing or decreasing costs: No additional factors increasing or decreasing costs are anticipated by the board.

(b) Reporting and paperwork requirements: No additional paperwork requirements, just different bookkeeping schedule.

(3) Assessment of anticipated effect on state and local revenues: No changes anticipated; fees remain the same, just different schedule.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Alternative considered was leaving the regulation as is, however, the University of Louisville and University of Kentucky both felt that changing to the academic year schedule would save them money on the long term.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Board is not aware of any statute, regulation or government policy which is in conflict, overlaps or is duplicated by this proposed amendment.

(a) Necessity of proposed regulation if in conflict: N/A - see (5) above.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A - see (5) above.

(6) Any additional information or comments: The board and the University of Louisville and University of Kentucky all feel that their students' postgraduate training licenses should conform to an academic year schedule. This will be more efficient.

TIERING: Was tiering applied? Yes

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

201 KAR 12:110. School license.

RELATES TO: KRS 317A.060, 317A.090

STATUTORY AUTHORITY: KRS 317A.050, 317A.060

NECESSITY AND FUNCTION: Each school owner shall [must] submit an application to operate a school of cosmetology, furnish proof of financial responsibility, and meet[ing] all city, county, and state zoning, building, and plumbing codes.

Section 1. Each person, firm or corporation applying for a license to operate a school of cosmetology shall [must] submit an application provided by the board.

Section 2. Each individual owner, or one (1) partner, in the instance of a partnership, or one (1) corporate officer in the instance of a corporation, shall [must] submit a financial statement indicating financial assets in the amount of $10,000 for twenty (20) students enrolled and $1,000 for each additional student enrolled.

Section 3. A person having any interest in operating a school shall [must] submit a minimum of two (2) character references, proposed copy of student contract indicating all financial charges to enrolling students, and term of lease for location, if applicable.

Section 4. Application for license to operate a school of cosmetology shall [must] be accompanied by an architect's or draftsman's plan of proposed premises drawn to scale, showing the arrangements of the classroom, clinic area, mannequin area, dispensary, reception area, shampoo area, office and any other area of the school, entrance and exits, and placement of equipment.

Section 5. A license to operate a cosmetology school carries the approval of this board and is

valid only for the location and person, firm, or corporation named on application and license issued by the board. A school of cosmetology license is never transferable from one location to another or from one person, firm or corporation to another.

Section 6. The owners, firm or corporation operating a school of cosmetology shall [must] notify the board in writing twenty (20) days prior to selling, transferring, or changing of ownership and management of a school. Prospective ownership shall [must] meet all qualifications of owning a school and have the approval of the board.

Section 7. Following approval of the application to operate a school of cosmetology by the board, the site shall be inspected by a quorum of the board or by at least one (1) member of the board and the board administrator. A final inspection of the premises shall be conducted by the members of the board prior to issuing of license. All schools shall [must] comply with city, county, and state zoning laws, plumbing and building codes. The construction or renovation of the proposed school shall [must] be completed and a final inspection conducted by the board within twelve (12) months from the date of approval of the site. Any extension of this period of time shall be granted for good cause shown provided said request is presented, in writing, to the board.

Section 8. Any cosmetology school owner, manager, or instructor who misrepresents facts to the board, to the students, or to the general public concerning any information regarding the school or any student enrolled therein, or in any way violates regulations adopted by this board, may [will] be served notice to show cause before this board, why the school's license and the instructor's license should not be revoked.

Section 9. Any person, establishment, firm or corporation which accepts, directly or indirectly, compensation for teaching persons any branch or subjects of cosmetology as defined in KRS 317A.010 shall be classified as a school and will be required to comply with all the provisions of law and the rules and regulations of this board.

Section 10. The board shall [will] not license a correspondence school, nor shall [will] the board license any school of cosmetology in an establishment that teaches any other trade, profession or business, excluding vocational training schools.

Section 11. No person who is an owner, partner, stockholder, corporate officer or who has any financial or other interest in the management and control of the school, shall be enrolled in said school as a student.

Section 12. No school of cosmetology shall permit or require students to be in attendance at school more than forty (40) hours in any one (1) week.

Section 13. Any school of cosmetology desiring night classes may [must], by proper application, be granted permission from the board to operate such classes. Under no condition shall the school operate past 10 p.m. local time.

Section 14. (1) It shall be considered a conflict of interest and therefore impermissible for a member of the board or for an employee of the board to apply for a new school license or to apply for any existing school license under KRS 317A.090 and this regulation. If any member of the board or any employee of the board desires to apply for a new school license or for any existing school license, said board member or employee of the board shall [must] submit a letter of resignation to the board no later than thirty (30) days prior to submitting an application for a school license.

(2) The board may choose not to consider any application for a school license submitted by a relative of a member of the board, by a relative of a board employee or by any person with whom a member of the board or a board employee shares a significant financial interest. Failure to make full disclosure to the board as to the exact nature of the relationship between the board member or employee of the board and the applicant may result in denial of approval of licensure.

(3) The provisions of this section shall apply only to applications for licenses approved or filed, licenses issued, or actions of a person serving as a member of the board or as a board employee after June 10, 1986.

PAT WILSON, Chairman

APPROVED BY AGENCY: January 10, 1990

FILED WITH LRC: February 13, 1990 at 3 p.m.

PUBLIC HEARING: A public hearing has been scheduled for March 23, 1990 at 2 p.m. Send written notification of intent to attend the public hearing or written comments on the proposed amendment to: Carroll Roberts, Administrator, 314 West Second Street, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Carroll Roberts

(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? No. Tiering is 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 12:120. School faculty.

RELATES TO: KRS 317A.010
STATUTORY AUTHORITY: KRS 317A.050, 317A.090
NECESSITY AND FUNCTION: All instructors and apprentice instructors shall [must] hold the appropriate license and provide adequate supervision and instruction to students.

Section 1. Any person employed by a school for the purpose of managing, teaching and instruction, shall [must] be licensed as a cosmetologist instructor. Each licensed instructor or apprentice instructor shall [must] keep their photograph posted with their license.

Section 2. All students shall [must] be under the immediate supervision of a licensed instructor during all classes and study hours and practical student work.

Section 3. No licensed cosmetologist shall render services in a school. Instructors and apprentice instructors shall render services only incidental to and for the purpose of instruction.

Section 4. Every instructor and apprentice instructor employed in a school of cosmetology shall devote their entire time during the school hours to that of instructing the students and shall not apply his or her time to that of private or public practice for compensation during school hours or permit students to instruct or teach other students in the absence of a teacher.

Section 5. Teaching by demonstrators is strictly forbidden, except properly qualified licensed operators may demonstrate to the students new processes, new preparations, and new appliances in the presence of licensed teachers. Such a demonstration may only take place in a licensed school. Schools shall not permit more than one (1) demonstration in any calendar month.

Section 6. All services rendered in a school on patrons shall [must] be done by students only. Instructors shall be allowed to teach and aid the students in performing the various services.

Section 7. Instructors and apprentice instructors in attendance shall [must], at all times, wear a clean, washable uniform, and an insignia or badge indicating they are an instructor or apprentice instructor in the school.

Section 8. Each school of cosmetology shall, within five (5) days after the termination, employment or other change in faculty personnel, notify the board of such change.

Section 9. Schools enrolling an apprentice instructor shall maintain the following ratio: One (1) apprentice instructor to one (1) instructor.

PAT WILSON, Chairman
APPROVED BY AGENCY: January 10, 1990
FILED WITH LRC: February 13, 1990 at 3 p.m.
PUBLIC HEARING: A public hearing has been scheduled for March 23, 1990 at 2 p.m. Send written notification of intent to attend the public hearing or written comments on the proposed amendment to: Carroll Roberts, Administrator, 314 West Second Street, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Carroll Roberts
(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? No. Tiering is 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 12:130. School fees for services.

RELATES TO: KRS 317A.060
STATUTORY AUTHORITY: KRS 317A.050
NECESSITY AND FUNCTION: Schools are considered establishments of teaching and learning and shall [should] not operate as a beauty salon or charge the public or students enrolled additional fees.

Section 1. Each school of cosmetology shall [must] submit a price list for services rendered

and subsequent revisions of price changes to the office of the board. Said price list shall [will] remain on file in the office of the board.

Section 2. A copy of such prices shall [must] be posted on a card in each room of the school where work is done on the public. Price list shall [must] be printed in type large enough to be read at a distance of ten (10) feet.

Section 3. Schools shall not be permitted to charge students additional fees for demonstrations, nor shall any supply house or manufacturer be permitted to charge students fees for such demonstrations.

PAT WILSON, Chairman
APPROVED BY AGENCY: January 10, 1990
FILED WITH LRC: February 13, 1990 at 3 p.m.
PUBLIC HEARING: A public hearing has been scheduled for March 23, 1990 at 2 p.m. Send written notification of intent to attend the public hearing or written comments on the proposed amendment to: Carroll Roberts, Administrator, 314 West Second Street, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Carroll Roberts
(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? No. Tiering is 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 12:140. School equipment.

RELATES TO: KRS 317A.050
STATUTORY AUTHORITY: KRS 317A.060, 317A.090

NECESSITY AND FUNCTION: Sufficient implements, equipment, supplies, and space for instruction is necessary to assure proper teaching and training for students.

Section 1. No school of cosmetology shall [will] be licensed by this board having less than the following equipment: Shampoo bowls, facial chairs, dryers, manicure tables, styling chairs, curling irons, facial supplies, covered containers for hairpins, clips and rollers, covered waste containers, sufficient mannequins for use in practicing iron curling, finger waving, and other related subjects, equipment and supplies for sanitation and sterilization; necessary supplies including, but not limited to: shampoos, color preparations, permanent waves, cosmetics, and manicuring equipment. All equipment and supplies shall [must] be available for student use and practice.

Section 2. Schools shall [must] be located as to be entirely separated and have no connection with any beauty salon or barber shop, or any other place of business.

Section 3. No school shall [will] be approved, nor after approval, shall [will] be permitted to operate by this board if it:
(1) Has space of less than thirty-six (36) square feet in the clinical area for each student involved on the floor of said clinical area at any one time.
(2) Has a space less than eighteen (18) square feet in the mannequin area for each student involved on the floor of said mannequin area at any one time.
(3) And does not have a reasonable amount of area allotted for training of students in all areas other than those previously mentioned.

Section 4. All schools licensed by this board shall have a separate room to be used for demonstration and study, said room to have necessary charts and equipment to carry out the curriculum. This room shall [must] also contain a blackboard, charts relating to the curriculum, classroom chairs with armrests, or desks for students' use.

Section 5. Every school shall [is required to] maintain a separate lavatory and toilet for male and female students.

Section 6. Lockers shall [must] be provided by the schools for student use.

Section 7. Booths or partitions in the work department shall be sufficiently low to permit observation of students while they are working.

Section 8. Every school shall [is required to] have a reference library composed of, but not limited to, the books recommended and set forth in the regulations as well as any other literature and materials pertinent to the teaching and study of cosmetology, including the informational copy of the Kentucky State Board of Hairdressers and Cosmetologists statutes and regulations.

Section 9. Each school of cosmetology shall [is required to] furnish a supply or dispensing room in which each student shall obtain actual experience for a period of time as indicated by

the course of instruction. Said room shall contain: Supply of clean towels or linens, lavatory, or sink, bottles and containers distinctly and correctly labeled, large wet sterilizer, large dry sterilizer, soap, covered waste containers, closed storage space for supply of clean towels or linens, covered containers for used towels or linens, stove, pressing combs, irons, all other solutions, and preparations used.

PAT WILSON, Chairman
APPROVED BY AGENCY: January 10, 1990
FILED WITH LRC: February 13, 1990 at 3 p.m.
PUBLIC HEARING: A public hearing has been scheduled for March 23, 1990 at 2 p.m. Send written notification of intent to attend the public hearing or written comments on the proposed amendment to: Carroll Roberts, Administrator, 314 West Second Street, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Carroll Roberts
(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? No. Tiering is 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 12:150. School records.

RELATES TO: KRS 317A.090
STATUTORY AUTHORITY: KRS 317A.050
NECESSITY AND FUNCTION: Schools shall [must] keep records of students' attendance and progress.

Section 1. A daily record of the attendance of the enrollment, including full-time, and part-time students and apprentice instructors shall [must] be kept by the schools in such a manner as to be available to the employees of the state board or to the members of the state board at all times.

Section 2. Schools shall [are required to] keep daily records, approved and signed by the instructor, showing practical work and work performed on clinic patrons. Said records shall [must] be available to the employees of the state board or to the members of the state board at all times.

Section 3. A detailed record shall be kept of all enrollments, withdrawals and dismissals.

Section 4. All records shall [must] be kept in a lockable fireproof file on the premises of the school and shall [must] be available for inspection by the state board or its employees during hours of operation.

Section 5. The student permit and certification of hours completed shall be forwarded to the office of the board within ten (10) working days of the date of the students' withdrawal, dismissal, or completion of 1,800 hours.

Section 6. Cosmetology schools will be held fully responsible for the completeness, accuracy, and mailing or delivery to the state board office no later than the 10th of each month on forms supplied by the board showing the total hours obtained for the previous month and the total accumulated hours to date for students enrolled. Only the hours recorded shall be submitted each month and such report shall not be amended without satisfactory proof of error.

Section 7. A copy of the students' hours, provided to the office of the board, shall [must] be posted monthly on a bulletin board in the school to be available to the students and employees or agents of the board.

PAT WILSON, Chairman
APPROVED BY AGENCY: January 10, 1990
FILED WITH LRC: February 13, 1990 at 3 p.m.
PUBLIC HEARING: A public hearing has been scheduled for March 23, 1990 at 2 p.m. Send written notification of intent to attend the public hearing or written comments on the proposed amendment to: Carroll Roberts, Administrator, 314 West Second Street, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Carroll Roberts
(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? No. Tiering is not applicable because there is only one classification of persons to which these regulations apply.

GENERAL GOVERNMENT CABINET
Board of Registration for Professional Engineers & Land Surveyors
(Proposed Amendment)

201 KAR 18:040. Fees.

RELATES TO: KRS 322.040, 322.090, 322.100, 322.110, 322.120, 322.140, 322.150, 322.160, 322.420

STATUTORY AUTHORITY: KRS 322.090, 322.100, 322.120, 322.140, 322.290, 322.420

NECESSITY AND FUNCTION: KRS Chapter 322 gives the board certain authority to fix fees, and this is intended to outline fees covering various steps of application, examination, certification, registration and/or renewal fees.

Section 1. Fees. (1) The license fee under KRS 322.040 shall be $140 [115], of which thirty (30) [seventy-five (75)] dollars is payable on application. If approved, the fee for examination shall be $100. The license fee under KRS 322.120 shall be $150 [100] all of which is payable on application. The license fee under KRS 322.040(2)(a) shall be $140 of which thirty (30) dollars is payable as an application fee. If approved, the fee for examination shall be $100. The amounts specified as application fees shall [should] accompany each application; fees specified as examination fees shall be received in the board office at least two (2) weeks prior to the examination date. All fees [and] shall be transmitted by check or money order made payable to "Kentucky State Registration Board."

(2) Application [These] fees shall [will] be retained by the board as nonrefundable [application] fees[, the same to be credited to the applicant when and if a license is granted].

(3) If approved under KRS 322.120 the license certificate shall [will] be issued without further fee, and if under KRS 322.040, it will be issued upon receipt by the board of the final payment of ten (10) [forty (40)] dollars, representing the balance of the total licensing fee of $140 [115].

(4) Only one (1) complete application form is required for a license in any one or more branches of engineering or land surveying. However, an updating of the application and an additional examination [application] fee of $100 [seventy-five (75)] dollars and an additional ten (10) [forty (40)] dollar final fee is required for each additional branch of engineering or section of the law under which the applicant subsequently applies for licensing. The update must stress the work experience the applicant has had in the branch he wishes to add.

(5) The application fee to take the engineer in training examination and the land surveyor in training examination shall be forty (40) dollars.

(6) The annual renewal fee for the license of a professional engineer or a professional land surveyor shall be thirty-five (35) dollars. License renewal shall be on a biennial basis.

(7) The fee for reinstatement of an expired license shall be $150.

(8) The fee for verifying a registrants licensure to another state or jurisdiction shall be ten (10) dollars.

AUBREY J. CORNETTE, Chairman

APPROVED BY AGENCY: January 19, 1990

FILED WITH LRC: February 15, 1989 at 10 a.m.

PUBLIC HEARING: A public hearing on this proposed amendment to 201 KAR 18:040 shall be held on March 21, 1990 at 1:30 p.m. at the Office of the Board, The Kentucky Engineering Center, 160 Democrat Drive, Frankfort, Kentucky 40601. Individuals interested in attending this hearing shall notify this agency in writing by March 16, 1989, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Larry S. Perkins, Executive Director, Kentucky State Board of Registration for Professional Engineers and Land Surveyors, 160 Democrat Drive, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Larry S. Perkins

(1) Type and number of entities affected: Various - renewals will affect 5,000 annually. Reciprocities will affect 400 annually. Examinations will affect 800 annually.

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

1. First year: Examinations will increase by $25 one time fee. Renewals will increase by $15 yearly. Reciprocities will increase by $25 one time only.
2. Continuing costs or savings: See above.
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: Will increase agency fees by approximately $80,000 annually.

1. First year:

2. Continuing costs or savings: Same as above.
3. Additional factors increasing or decreasing costs: No change.
(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: N/A
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A
(6) Any additional information or comments: Fee changes necessary due to rising costs and upon recommendation of GOPM.
TIERING: Was tiering applied? Yes

KENTUCKY DEPARTMENT OF AGRICULTURE
(Proposed Amendment)

302 KAR 15:020. Dairy cattle shows and sales.

RELATES TO: KRS 246.250
STATUTORY AUTHORITY: KRS 246.250
NECESSITY AND FUNCTION: To establish requirements for state-supported purebred dairy cattle shows and sales.

Section 1. General Requirements for Shows and Sales. (1) All animals exhibited in the show shall be consigned and sold in the sale.
(2) No exhibitor may consign more than three (3) females and one (1) male or four (4) females to the show and sale.
(3) No more than four (4) bulls may be consigned to a show and sale. Young bulls which have not been proved must have a pedigree showing that they are out of dams having milk and butterfat production records exceeding the national breed average by at least sixty (60) percent and classified very good or better. [Proved sires which have a proof on ten (10) or more daughters averaging thirty (30) percent or more above the national breed average for milk and butterfat may be considered.] Sires of young bulls should be at least plus proven for milk and butterfat.
(4) A minimum of forty (40) animals shall be consigned to each event. Consignments must be made from at least five (5) states [for the first sale. Total number of states consigning animals annually shall increase at the rate of one (1) each year until a minimum of ten (10) states are participating].
(5) Cosponsors of state-supported shows and sales shall set the highest possible objectives and plans for each event and, in almost all instances, they shall exceed those set by the usual consignment sale.
(6) Each cooperating agency shall select, in cooperation with the department, an auctioneer and sales manager experienced in conducting sales of national scope.
(7) The judge or judges for the show shall be of national prominence and selected in cooperation with the department from approved lists that may be published by the breed associations.
(8) All females entered in the show and sale must be sired by plus proven sires or sons of plus proven sires. Plus for milk, fat, or dollars will qualify a sire. [All females over three (3) years of age entered in a show or sale must be classified "very good" or "better" and if a cow is not old enough to classify, her dam should be classified very good or better. Good plus cows may be considered by the sales committee if milk and fat production exceeds the national breed average by forty (40) percent.]
(9) All females over three (3) years of age and entered in the show and sale shall be of "very good" or "excellent" type either officially or in the opinion of the individual making the selection. Nonclassified two (2) year old cows and uncalved heifers may qualify by being from dams that are officially classified "very good" or "excellent" or from dams classifying less than "very good" or "excellent" or from dams classifying less than "very good" with production records fifty (50) percent above breed average.
(10) [(9)] Animals considered unsound in any manner shall not be accepted by show and sale officials.
[(10) All milking animals three (3) years old or over entered in the show and sale must have an official (Standard DHIA and/or official breed record) annual production record at least twenty-five (25) percent above the current DHIA national breed average on mature equivalent basis of milk and butterfat.]
(11) All milking animals three (3) years old or older entered in the show and sale must have an official (DHIA-DHIR) completed record with at least one (1) record above herdmates for milk or fat. Two (2) year olds that have not completed a record may qualify on their dams production provided the dam has at least one (1) completed record above herdsmates for milk or fat. Heifers (uncalved) must be from dams with one (1) or more records above herdsmates. [Heifers not in production must be from animals having average production records equal to twenty-five (25) percent above the national breed average for milk and butterfat.]
(12) The cooperating agency shall prepare and present to the department adequate records pertaining to the show and sale prior to final settlement on advertising.
(13) The records mentioned in subsection (12) of this section shall include:
(a) A record of the transfer of ownership of each animal from the breed association;
(b) A list of consignors, animals sold, premiums awarded, selling price, name and address of purchaser;
(c) Sample copies of printed advertisements and promotional material and copies of invoices covering advertising costs; and
(d) Financial statement showing the total receipts and disbursements for the event.
(14) Dates for state-supported purebred shows and sales shall be selected in cooperation with the department and shall not conflict with similar events. Consideration shall be given to marketing patterns, seasons, and the possibility of tying the show and sale in with other major national and state activities.
(15) The location of these national events shall be selected in cooperation with the department after due consideration is given to the following:
(a) Facilities for showing and selling high quality cattle;
(b) Housing accommodations for exhibitors and

buyers;
(c) Transportation, air travel and highway network;
(d) Arrangements for handling wire bids; and
(e) Added attractions in the area.
(16) Show and sale planning committees appointed by each state breed association shall include the Director of the Department of Agriculture's Livestock Show Program and representatives of the national and state breed association. Representatives from other groups and organizations, such as Chamber of Commerce, tourist commission, and farm organizations shall be added to the committees when they are willing and able to make a contribution to the success of the show and sale. The committee chairman and other officers for the event shall be elected by the committee.
(17) All persons attending a consignment show or sale do so at their own risk.
(18) All records on pedigree information shall cover the three (3) preceding generations (including the consignment) and be presented to the show and sale officials when consignment is made.
(19) The cooperating agency may charge an entry fee up to but not to exceed the amount of premium offered by the department. A sales commission may be charged by the cooperating agency to cover the actual cost of the sale but in no case shall the commission exceed twenty-five (25) percent of the gross sales.
(20) Sales practices and procedures recommended by the Purebred Dairy Cattle Association shall apply as minimum requirements to all matters pertaining to the sale not otherwise covered by departmental policy or law.

Section 2. Terms and Conditions of Sale. (1) Terms of the sale in addition to those recommended by the Purebred Dairy Cattle Association shall be established by the cooperating agency with the approval of the department.
(2) The auctioneer shall be responsible for settling disputes as to bids and his decision on such matters shall be final.
(3) All payments shall be made to the individual designated by the cooperating agency.
(4) The purchaser assumes all risk for animals as soon as they are struck off; however, the cooperating agency shall care for the animals free of charge for a period of at least twenty-four (24) hours.
(5) Arrangements shall be made by the cooperating agency for adjustments or refunds on sales that fail to comply with rules and regulations.

Section 3. Health Requirements. (1) All animals consigned to the show and sale must be accompanied by an official health certificate from the state of origin which bears the approval of the livestock sanitary official of the state of origin showing compliance with Kentucky's exhibition and sale requirements. Current health regulations shall be published in the catalog.
(2) All records qualifying animals for the show and sale must be presented to the cooperating agency or their representatives when the entry is made.

Section 4. Catalog Requirements. (1) The consignment show and sale catalog shall be prepared by the sales committee and shall contain a list of all show classes and the premiums allocated in addition to the information pertaining to the sale. Show classes shall conform to the standards adopted by the Purebred Dairy Cattle Association.
(2) Each animal listed for sale in the catalog shall be identified in as much detail as possible. All production records along with the pedigree, calfhood vaccination for Bang's disease (brucellosis), classification information, and other information relating to its breeding and show honors shall be listed.
(3) Both consignor and breeder shall be listed on the pedigree of each animal in the catalog.
(4) The names and complete addresses of all consignors and the lot number of the animals they consign shall be given.
(5) The catalog shall contain information on:
(a) Location of show and sale headquarters;
(b) Hotel or motel room reservations;
(c) Shipping arrangements;
(d) Provisions for handling wire and mail bids;
(e) Sponsors;
(f) Entertainment; and
(g) Educational activities.
(6) No commercial advertisements shall appear in the catalog.
(7) Catalogs shall be ready for distribution not later than fifteen (15) days in advance of the event.
(8) The catalog shall feature a section on the location of the event in relation to other major towns, major highways, and tourist attractions.

Section 5. Advertising Requirements. (1) All advertising for shows and sales shall be planned and contracted in cooperation with the department, and all shows and sales shall be advertised as state-supported events cosponsored by the national and state associations and the department.
(2) The cost of the show and sale catalog may be considered advertising costs to be paid by the department.
(3) Initial advertising, nationwide shall begin at least four (4) months in advance of the sale.

WARD "BUTCH" BURNETTE, Commissioner
APPROVED BY AGENCY: January 18, 1990
FILED WITH LRC: January 19, 1990 at 2 p.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on March 23, 1990 at 9 a.m. at Capital Plaza Tower, 7th Floor Conference Room. Individuals interested in attending this hearing shall notify this agency in writing by March 18, 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: J. Michael Noyes, General Counsel, Department of Agriculture, 7th Floor, Capital Plaza Tower, Frankfort, Kentucky

40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: James E. Claycomb
(1) Type and number of entities affected: The members of five purebred dairy cattle associations as named in KRS 246.250.
(a) Direct and indirect costs or savings to those affected:
1. First year: It is difficult to determine a dollar value to each breed association. The amended regulation would reduce the number of states required to consign animals to the show and sale from ten to five.
2. Continuing costs or savings: Unable to determine.
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: No change.
(2) Effects on the promulgating administrative body: None
(a) Direct and indirect costs or savings: No change. KRS 246.250 sets the maximum funds available to qualified breed associations.
1. First year: No change.
2. Continuing costs or savings: No significant change in either cost or savings.
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: No change.
(3) Assessment of anticipated effect on state and local revenues: Unable to determine - however, little or no effect on state or local revenue is anticipated.
(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods considered.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No overlap, conflict 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: This regulation, if amended, would reduce the requirements of purebred dairy cattle associations to be eligible for matching funds for approved Kentucky national shows and sales.
TIERING: Was tiering applied? Yes.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 6:020. Corrections policies and procedures.

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

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on February 15, 1990 [December 15, 1989] and hereinafter should be referred to as Corrections Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601 or may be reviewed at the Office of General Counsel weekdays from 8 a.m. to 4:30 p.m.

1.1	Legal Assistance for Corrections Staff
1.2	News Media
1.4	The operation of Contracted Adult Correctional Facilities
1.6	Extraordinary Occurrence Reports
1.9	Institutional Duty Officer
1.11	Population Counts and Reporting Procedures
1.12	Operation of Motor Vehicles by Corrections Cabinet Employees
2.1	Inmate Canteen
2.2	Warden's Fund
2.10	Surplus Property
3.1	Code of Ethics
3.12	Institutional Staff Housing
4.2	Staff Training and Development
4.3	Firearms and Chemical Agents Training
6.1	Open Records Law
7.2	Asbestos Abatement
8.4	Emergency Preparedness
9.1	Use of Force
9.3	Transportation of Convicted Offenders
9.4	Transportation of Inmates to Funerals or Bedside Visits
9.6	Contraband
9.7	Storage, Issue and Use of Weapons Including Chemical Agents
9.8	Search Policy
9.9	Transportation of Inmates
9.10	Security Inspections
9.11	Tool Control
9.15	Institutional Entry and Exit Policy and Procedures
9.18	Informants
9.19	Found Lost or Abandoned Property
10.2	Special Management Inmates (Amended 2/15/90)
10.3	Safekeepers
10.4	Special Needs Inmates
11.2	Nutritional Adequacy of the Diet for Inmates
11.3	Special Diet Procedures
13.1	Pharmacy Policy and Formulary
13.2	Health Maintenance Services
13.3	Medical Alert System
13.4	Health Program Audits
13.5	Acquired Immune Deficiency Syndrome
13.6	Sex Offender Treatment Program
14.2	Personal Hygiene Items
14.3	Marriage of Inmates [(Added 12/15/89)]
14.4	Legal Services Program
14.6	Inmate Grievance Procedures
15.1	Hair and Grooming Standards
15.2	Offenses and Penalties (Amended 2/15/90)
15.3	Meritorious Good Time (Amended 2/15/90)
15.5	Restoration of Forfeited Good Time
15.6	Adjustment Procedures and Programs (Amended 2/15/90)
16.1	General Inmate Visiting Procedure
16.2	Inmate Correspondence
16.3	Telephone Calls
16.4	Inmate Packages [(Amended 12/15/89)]
17.1	Inmate Personal Property [(Amended 12/15/89)]

17.2 Assessment Center Operations
17.3 Controlled Intake of Inmates
18.4 Classification of the Inmate
18.5 Custody/Security Guidelines
18.6 Classification Document
18.7 Transfers
18.8 Guidelines for Transfers Between Institutions
18.9 Out-of-state Transfers
18.10 Preparole Progress Reports
18.11 Kentucky Correctional Psychiatric Center Transfer Procedures
18.12 Referral Procedure for Inmates Adjudicated Guilty But Mentally Ill
18.13 Population Categories
18.15 Protective Custody
19.1 Government Services Projects
19.2 Community Services Projects
20.6 Vocational Study Release
22.1 Privilege Trips
25.1 Gratuities
25.2 Public Official Notification of Release of an Inmate
25.3 Prerelease Program
25.4 Inmate Furloughs (Amended 2/15/90)
25.6 Community Center Program (Amended 2/15/90)
25.7 Expedient Release
25.8 Extended Furloughs
27-01-01 Probation and Parole Procedures
27-02-01 Duties of Probation and Parole Officers
27-03-01 Workload Formula Supervisor/Staff Ratio
27-05-01 Testimony, Court Demeanor and Availability of Legal Services
27-06-01 Availability of Supervision Services
27-06-02 Equal Access to Services
27-07-01 Cooperation with Law Enforcement Agencies
27-08-01 Use of Force
27-09-01 Kentucky Community Resources Directory
27-10-01 Advanced Supervision (Amended 2/15/90)
27-11-01 Intensive Supervision (Amended 2/15/90)
27-12-01 Supervision: Case Classification
27-12-02 Risk/Needs Assessment
27-12-03 Initial Interview
27-12-04 Conditions of Regular Supervision/Request for Modification
27-12-05 Releasee's Report
27-12-06 Grievance Procedures for Offenders
27-12-07 Employment, Education/Vocational Referral
27-12-08 Supervision Plan
27-12-09 Casebook
27-12-10 Guidelines for Monitoring Supervision Fee
27-12-11 Guidelines for Monitoring Financial Obligations Ordered by the Releasing Authority
27-12-12 Other Financial Obligations (Not Ordered by Releasing Authority)
27-12-13 Community Service Work
27-12-14 Client Travel Restrictions
27-13-02 Alcohol Detection
27-14-01 Interstate Compact Transfers
27-14-02 Interstate Compact Out-of-state Probation and Parole Violation
27-15-01 Supervision Report; Violations, Unusual Incidents
27-16-01 Search; Seizure; Chain of Custody; Disposal of Evidence
27-17-01 Absconder Procedures
27-18-01 Probation and Parole Issuance of Detainer/Warrant
27-19-01 Preliminary Revocation Hearing
27-20-01 Division of Probation and Parole Controlled Intake Program
27-20-02 Prisoner Intake Notification
27-20-03 Prisoner Status Change
27-21-01 Apprehension and Transportation of Probation and Parole Violators
27-22-01 Fugitive Unit - Apprehensions
27-22-02 Fugitive Unit - Transportation of Fugitives
27-23-01 In-state Transfer
27-24-01 Closing Supervision Report
27-24-02 Reinstatement of Clients to Active Supervision
27-25-01 Application for Final Discharge from Parole (Amended 2/15/90)
27-26-01 Assistance to Former Clients and Dischargees
27-27-01 Restoration of Civil Rights
27-28-01 Firearms/Explosives: Application for Relief from Disability
27-29-01 Parole Review Dates Modification
28-01-01 Probation and Parole Investigation Reports (Introduction, Definitions, Confidentiality, Timing, and General Comments)
28-01-02 Probation and Parole Investigation Reports (Administrative Responsibilities)
28-01-03 Probation and Parole Investigation Reports (Presentence/Postsentence Investigation Interview Procedure)
28-01-04 Probation and Parole Investigation Reports (Presentence/Postsentence Verification, Composition, Case Material and Submission Schedules)
28-01-05 Probation and Parole Investigation Reports (Computation of Jail Custody Credit)
28-01-06 Probation and Parole Investigation Reports (Misdemeanant Presentence Investigation Reports for the Circuit and District Courts)
28-01-07 Probation and Parole Investigation Reports (Supplemental Postsentence Investigation Report, Case Material, and Submission Schedule)
28-01-08 Probation Parole Investigation Reports (Partial Investigation Reports and Submission Schedule)
28-01-09 Release of Information of Factual Content on Presentence/Postsentence Investigation Reports
28-02-01 Expedient Release Program
28-03-01 Parole Plans/Halfway Houses/Extended Furlough/Sponsorship/Gradual Release
28-04-01 Furlough Verifications
28-05-01 Out-of-state Investigations

JOHN T. WIGGINTON, Secretary
APPROVED BY AGENCY: February 15, 1990
FILED WITH LRC: February 15, 1990 at noon
PUBLIC HEARING: A public hearing on this regulation has been scheduled for March 26, 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: 2,690 employees of the Corrections Cabinet, 7,206 inmates, 11,031 parolees and all visitors to state correctional institutions.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None - All of the costs involved with the implementation of the regulations are included in the operational budget.
2. Continuing costs or savings: Same as 2(a)1.
3. Additional factors increasing or decreasing costs: Same as 2(a)1.
(b) Reporting and paperwork requirements: Monthly submission of policy revisions.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. All policies are administered in a uniform manner.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 6:030. Kentucky State Reformatory.

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

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on February 15, 1990 [December 15, 1989] and hereinafter should be referred to as Kentucky State Reformatory Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601 or may be reviewed at the Office of General Counsel weekdays from 8 a.m. to 4:30 p.m.

KSR 01-00-09	Public Information and News Media Relations
KSR 01-00-10	Entry Authorization for All Cameras and Tape Recorders Brought into the Institution
KSR 01-00-14	Extraordinary Occurrence Report [(Amended 12/15/89)]
KSR 01-00-15	Cooperation and Coordination with Oldham County Court
KSR 01-00-19	Personal Service Contract Personnel
KSR 01-00-20	Consent Decree Notification to Inmates
KSR 02-00-01	Inmate Canteen (Amended 2/15/90)
KSR 02-00-03	Screening Disbursements from Inmate Personal Accounts
KSR 02-00-11	Inmate Personal Accounts
KSR 02-00-12	Institutional Funds and Issuance of Checks
KSR 04-00-02	Staff Training and Development
KSR 05-00-01	Officers' Daily Housing Security and Safety Log
KSR 05-00-02	Research Activities
KSR 05-00-03	Management Information Systems
KSR 06-00-01	Inmate Master File
KSR 06-00-02	Records Audit
KSR 06-00-03	Kentucky Open Records Law and Release of Psychological/ Psychiatric Information
KSR 07-00-02	Institutional Tower Room Regulations
KSR 07-00-04	Handling of PCB Articles and Containers
KSR 07-00-05	Proper Removal of Transformers
KSR 07-00-06	Asbestos Abatement
KSR 08-00-07	Inmate Family Emergency - Life Threatening Illness or Death in Inmate's Immediate Family (Amended 2/15/90)
KSR 08-00-08	Death of an Inmate/Notification of Inmate Family in Case of Serious Injury, Critical Medical Emergency, Major Surgery (Amended 2/15/90)
[KSR 08-00-09	Emergency Preparedness Training (Deleted 2/15/90)]
KSR 08-00-10	Hazardous Chemicals and Material Safety Data Sheet
KSR 09-00-04	Horizontal Gates/Box 1 Entry and Exit Procedure (Amended 2/15/90)
KSR 09-00-05	Gate I Entrance and Exit Procedure (Amended 2/15/90)
KSR 09-00-09	Contraband, Dangerous Contraband and Search Policy (Amended 2/15/90)
KSR 09-00-14	Use of Force
KSR 09-00-21	Crime Scene Camera
KSR 09-00-22	Collection, Preservation, and Identification of Physical Evidence
KSR 09-00-23	Drug Abuse Testing (Amended 2/15/90)
KSR 09-00-25	Inmate Motor Vehicle Operator's License (Amended 2/15/90)
KSR 09-00-26	Contraband Outside Institutional Perimeter
KSR 09-00-27	Construction Crew Entry/Exit
KSR 09-00-28	Restricted Areas (Amended 2/15/90)
KSR 09-00-29	Transportation of Inmates
KSR 09-00-30	Parole Board (Added 2/15/90)
KSR 10-00-01	Unit D - Staffing Pattern, Staff Allocation, Position Description, Staff Selection, Training and Evaluation, Time and Attendance, and Unit Personnel Records
KSR 10-00-02	Unit D - General Operational Procedures (Amended 2/15/90)
KSR 10-00-03	Unit D - Inmate Tracking System and Records System

KSR 10-00-04	Unit D - Administrative Segregation (Amended 2/15/90)
KSR 10-00-05	Unit D - Disciplinary Segregation
KSR 10-00-06	Unit D - Protective Custody
KSR 10-00-07	Unit D - Geriatrics
KSR 10-00-08	Unit D - Safekeepers
KSR 10-00-09	Unit D - Hold Ticket Residents
KSR 10-00-10	Unit D - Inmate Legal Access
KSR 10-00-11	Unit D - Behavior Problem Control
KSR 10-00-12	Unit D - Designated Staff Visits (Amended 2/15/90)
KSR 10-00-13	Unit D - Property Room Access
KSR 11-00-01	Meal Planning for the General Population
KSR 11-00-02	Special Diets [(Amended 12/15/89)]
KSR 11-00-03	Food Service Inspections
KSR 11-00-04	Dining Room Dress Code for Inmates [(Amended 12/15/89)]
KSR 11-00-06	Health Standards/Regulations for Food Service Employees
KSR 11-00-07	Early Chow Line Passes for Medically Designated Inmates
KSR 12-00-01	Inmate Summer Dress Regulations
KSR 12-00-02	Sanitation and General Living Conditions
KSR 12-00-03	State Items Issued to Inmates
KSR 12-00-07	Regulations for Inmate Barbershop
KSR 13-00-01	Identification of Mentally Retarded Inmates
KSR 13-00-02	Hospital Operations, Rules and Regulations
KSR 13-00-03	Medication for Inmates Leaving Institution Grounds
KSR 13-00-04	Medical and Dental Care [(Amended 12/15/89)]
KSR 13-00-06	Infection Control
KSR 13-00-07	Referral of Inmates Considered to Have Severe Emotional Disturbances
KSR 13-00-08	Institutional Laboratory Procedures
KSR 13-00-09	Institutional Pharmacy Procedures (Amended 2/15/90)
KSR 13-00-10	Requirements for Medical Personnel
KSR 13-00-11	Preliminary Health Evaluation and Establishment of Inmate Medical Record
KSR 13-00-12	Vision Care/Optometry Services
KSR 13-00-14	Periodic Health Examinations for Inmates
KSR 13-00-15	Medical Alert System
KSR 13-00-16	Suicide Prevention and Intervention Program
KSR 14-00-01	Inmate Rights
KSR 14-00-02	A/C Center and Unit D Inmate Access to Legal Aide Services
KSR 14-00-04	Inmate Grievance Procedure
KSR 14-00-05	Inmate Marriages
KSR 14-00-06	Inmate Legal Aides [(Amended 12/15/89)]
KSR 15-00-02	Regulations Prohibiting Immate Control or Authority Over Other Inmate(s)
KSR 15-00-04	Restoration of Forfeited Good Time (Amended 2/15/90)
KSR 15-00-05	Differential Status for SU (QUIT) Inmates
KSR 15-00-06	Inmate I.D. Cards
KSR 15-00-07	Inmate Rules and Discipline - Adjustment Committee Procedures (Amended 2/15/90)
KSR 15-00-08	Firehouse Living Area (Amended 2/15/90)
KSR 15-00-10	Program Services for Special Housing Placement
KSR 15-01-01	Operational Procedures and Rules and Regulations for Unit A, B & C: Functions of Assigned Personnel
KSR 15-01-02	Operational Procedures and Rules and Regulations for Unit A, B, & C: Staff Operational Procedures (Amended 2/15/90)
KSR 15-01-03	Inmate Rules and Regulations
KSR 15-01-04	Institutional Medical and Fire Safety Service: Unit Application
KSR 15-01-05	Institutional Inmate Services
KSR 15-01-06	Operational Procedures and Rules and Regulations for Unit A, B & C: Inmate Housing Criteria and Regulations, Honor Status and General Population (Amended 2/15/90)
KSR 16-00-01	Visiting Regulations
KSR 16-00-02	Inmate Correspondence and Mailroom Operations
KSR 16-00-03	Inmate Access to Telephones
KSR 17-00-01	Housing Unit Assignment - Assessment/Classification Center
KSR 17-00-03	Notifying Inmates' Families of Admission and Procedures for Mail and Visiting
KSR 17-00-04	Assessment/Classification Center Operations, Rules and Regulations
KSR 17-00-05	Dormitory 10 Operations
KSR 17-00-06	Identification Department Admission and Discharge Procedures
KSR 17-00-07	Inmate Personal Property
KSR 17-00-08	Repair of Inmate Owned Appliances by Outside Dealers
KSR 18-00-04	Returns from Other Institutions
KSR 18-00-05	Transfer of Residents to Kentucky Correctional Psychiatric Center, and Referral Procedure for Residents Adjudicated Guilty but Mentally Ill
KSR 18-00-06	Classification and Special Notice Form
KSR 19-00-01	Inmate Work Incentives
KSR 19-00-02	On-the-job Training Program (Amended 2/15/90)
KSR 19-00-03	Safety Inspections of Inmate Work Assignment Locations
KSR 20-00-01	Vocational School Referral and Release Process
KSR 20-00-03	Academic School Programs
KSR 20-00-04	Criteria for Participation in Jefferson Community College Program
KSR 20-00-08	Integration of Vocational and Academic Education Programs
KSR 21-00-01	Legal Aide Office and Law Library Services and Supervision
KSR 21-00-02	Inmate Library Services
KSR 21-00-03	Library Services for Unit D
KSR 22-00-03	Inmate Organizations
KSR 22-00-07	Inmate News Magazine
KSR 23-00-02	Chaplain's Responsibility and Inmate Access to Religious Representatives
KSR 23-00-03	Religious Programming [(Amended 12/15/89)]
KSR 25-00-01	Discharge of Residents to Hospital or Nursing Home
KSR 25-00-02	Violations of Law or Code of Conduct by Inmates on Parole Furlough
KSR 25-00-03	Preparole Progress Report

JOHN T. WIGGINTON, Secretary
APPROVED BY AGENCY: February 15, 1990
FILED WITH LRC: February 15, 1990 at noon

PUBLIC HEARING: A public hearing on this regulation has been scheduled for March 26, 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: 558 employees of the Kentucky State Reformatory, 1401 inmates, and all visitors to state correctional institutions.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None - All of the costs involved with the implementation of the regulations are included in the operational budget.
2. Continuing costs or savings: Same as 2(a)1.
3. Additional factors increasing or decreasing costs: Same as 2(a)1.
(b) Reporting and paperwork requirements: Monthly submission of policy revisions.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. All policies are administered in a uniform manner.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 6:040. Kentucky State Penitentiary.

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

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on February 15, 1990 [December 15, 1989] and hereinafter should be referred to as Kentucky State Penitentiary Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601 or may be reviewed at the Office of General Counsel weekdays from 8 a.m. to 4:30 p.m.

KSP 000000-06	Administrative Regulations
KSP 010000-04	Public Information and Media Communication
KSP 020000-15	Legal Assistance
KSP 030000-01	Inventory Records and Control
KSP 030000-04	Requisition and Purchase of Supplies and Equipment
KSP 030000-05	Inmate Personal Funds [(Amended 12/15/89)]
KSP 030000-06	Inmate Commissary Program
KSP 040000-01	Management Information System
KSP 040000-02	Inmate Records
KSP 040000-08	Inmate Equal Opportunity Policy
KSP 050000-14	Searches and Preservation of Evidence
KSP 060000-01	Special Security Unit
KSP 060000-02	Special Management Units: Assignment, Classification Review and Release (Amended 2/15/90) [Operational Procedures for Disciplinary Segregation, Administrative Segregation, Administrative Control and Behavioral Control Units]
KSP 060000-04	Protective Custody Unit
KSP 070000-01	Hospital Services
KSP 070000-02	Sick Call
KSP 070000-03	Health Evaluations
KSP 070000-04	Consultations
KSP 070000-05	Emergency Medical Procedure
KSP 070000-13	Pharmacy Procedures
KSP 070000-14	Medical Records
KSP 070000-16	Psychiatric and Psychological Services
KSP 070000-17	Dental Services for Special Management Units
KSP 070000-19	Optometric Services
KSP 070000-20	Menu Preparation and Planning
KSP 070000-24	Food Service, General Sanitation, Safety, and Protection Standards and Requirements
KSP 070000-25	Food Service Inspections
KSP 070000-30	Therapeutic Diets
KSP 090000-01	Inmate Work Programs/Safety Inspections of Inmate Work Locations (Amended 2/15/90)
KSP 090000-03	Correctional Industries [(Amended 12/15/89)]
KSP 100000-02	Visiting Program
KSP 100000-03	Disposition of Unauthorized Property
KSP 100000-04	Inmate Grooming and Dress Code [(Amended 12/15/89)]
KSP 100000-05	Procedures for Providing Clothing, Linens and Other Personal Items [(Amended 12/15/89)]
KSP 100000-06	Inmate Mail and Packages
KSP 100000-07	Inmate Telephone Access [(Amended 12/15/89)]
KSP 100000-08	Behavioral Counseling Record (Amended 2/15/90)
KSP 100000-09	Due Process/Disciplinary Procedures (Amended 2/15/90)
KSP 100000-11	Authorized and Unauthorized Inmate Property
KSP 100000-14	Property Room: Clothing Storage and Inventory

KSP 100000-15	Uniform Cell Standards for Fire Safety, Sanitation and Security
KSP 100000-18	Inmate Grievance Committee Hearings
KSP 100000-20	Legal Services Program
KSP 100000-21	Photocopies for Nonindigent Inmates with Special Court Deadlines
KSP 110000-04	Preparole Progress Report [(Amended 12/15/89)]
KSP 110000-06	General Guidelines of the Classification Committee
KSP 110000-07	Statutory Good Time Restoration
KSP 110000-08	Award of Meritorious Good Time
KSP 110000-10	Special Needs Inmates [(Amended 12/15/89)]
KSP 110000-12	Unit Classification Committee - Inmate Work Assignments
KSP 110000-13	Classification Document
KSP 110000-14	Vocational School Placement
KSP 110000-15	Transfers to Kentucky Correctional Psychiatric Center (KCPC)
KSP 110000-16	Consideration of Further Treatment Requirements for Inmates Prior to Release [(Amended 12/15/89)]
KSP 110000-18	Functions of the Classification Committee
KSP 120000-04	Academic Education (Amended 2/15/90)
KSP 120000-07	Community Center Program (Amended 2/15/90)
KSP 120000-08	Inmate Furloughs
KSP 120000-11	Religious Services - Staffing
KSP 120000-18	Religious Services - Religious Programming
KSP 120000-20	Marriage of Inmates
KSP 120000-31	Extended Furloughs
KSP 120000-32	Discharge of Inmates by Shock Probation
KSP 130000-10	Execution Plan

JOHN T. WIGGINTON, Secretary
APPROVED BY AGENCY: February 15, 1990
FILED WITH LRC: February 15, 1990 at noon
PUBLIC HEARING: A public hearing on this regulation has been scheduled for March 26, 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: 356 employees of the Kentucky State Penitentiary, 794 inmates, and all visitors to state correctional institutions.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None - All of the costs involved with the implementation of the regulations are included in the operational budget.
2. Continuing costs or savings: Same as 2(a)1.
3. Additional factors increasing or decreasing costs: Same as 2(a)1.
(b) Reporting and paperwork requirements: Monthly submission of policy revisions.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. All policies are administered in a uniform manner.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 6:050. Luther Luckett Correctional Complex.

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

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on February 15, 1990 [November 15, 1989] and hereinafter should be referred to as Luther Luckett Correctional Complex Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601 or may be reviewed at the Office of General Counsel weekdays from 8 a.m. to 4:30 p.m.

LLCC 01-08-01	Institutional Legal Assistance
LLCC 01-09-01	Public Information and News Media Access
LLCC 01-12-01	Duty Officer Responsibilities
LLCC 02-01-02	Fiscal Management: Accounting Procedures
LLCC 02-01-03	Fiscal Management: Agency Funds
LLCC 02-01-04	Fiscal Management: Insurance
LLCC 02-03-01	Fiscal Management: Audits
LLCC 02-06-01	Property Inventory
LLCC 02-07-01	Screening Disbursements from Inmate Personal Accounting
LLCC 08-01-01	Offender Records
LLCC 08-04-01	Storage of Expunged Records
LLCC 08-05-01	Psychological and Psychiatric Reports
LLCC 10-03-09	Duties and Responsibilities of Building 1 and 2 Officer
LLCC 11-03-01	LLCC Population Categories
LLCC 11-07-01	Adjustment Procedures for Minor Rule Violations
LLCC 11-09-01	Rules and Regulations of the Unit

LLCC 11-13-01	Inmate Dress and Use of Access Areas
LLCC 11-15-01	Postparole Furloughs
LLCC 11-16-01	Restoration of Forfeited Good Time
LLCC 11-18-02	Use of Monitor Telephone
LLCC 11-19-01	Unit Shakedowns/Control of Excess Property
LLCC 11-20-01	Program Services for "Special Needs"/Mentally Ill Inmates
LLCC 12-01-01	Special Management Inmates (Amended 2/15/90)
LLCC 12-01-02	Disciplinary Segregation Time Calculation (WTR)
LLCC 12-04-01	Guidelines for (7E) PC Unit/General Living Conditions
LLCC 13-01-01	Dining Room Guidelines
LLCC 13-04-01	Food Service: Meals
LLCC 13-04-02	Food Service: Menu, Nutrition and Special Diets
LLCC 13-05-02	Medical Screening of Food Handlers
LLCC 13-06-01	Food Service: Inspections and Sanitation
LLCC 13-07-01	Food Service: Purchasing, Storage and Farm Products
LLCC 13-08-01	OJT Food Service Training Placement
LLCC 14-01-01	Sanitation, Living Condition Standards, and Clothing Issue
LLCC 14-05-01	Institutional Inspections
LLCC 15-01-01	Health Maintenance Services; Sick Call and Pill Call
LLCC 15-02-01	Mental Health/Psychological Services
LLCC 15-03-01	Pharmacy
LLCC 15-03-02	Use of Psychotropic Medications
LLCC 15-04-01	Dental Services
LLCC 15-05-02	Licensure and Training Standards
LLCC 15-06-02	Specialized Health Services
LLCC 15-06-03	Emergency Medical/Dental Care Services
LLCC 15-06-04	First Aid/CPR Training Program
LLCC 15-06-05	Suicide Prevention and Intervention Program
LLCC 15-07-01	Health Records
LLCC 15-08-01	Special Diets
LLCC 15-12-01	Special Needs Unit
LLCC 15-14-01	Informed Consent
LLCC 15-15-01	Medical Restraints
LLCC 15-16-01	Health Education/Special Health Programs
LLCC 15-17-01	Serious and Infectious Diseases
LLCC 16-01-01	Inmate Rights and Responsibilities
LLCC 16-02-01	Inmate Grievance Procedure
LLCC 16-03-01	Inmate Legal Services
LLCC 17-01-01	Due Process/Disciplinary Procedure (Amended 2/15/90)
LLCC 18-01-01	Inmate Correspondence
LLCC 18-01-02	Issuance of Legal Mail to Inmate Population
LLCC 18-02-01	Inmate Visiting [(Amended 11/15/89)]
LLCC 18-02-03	Extended Visit and Furloughs
LLCC 18-02-04	Meritorious Visits [(Amended 11/15/89)]
LLCC 18-03-01	Entry and Identification of Visitors for Inmate Visitation [(Amended 11/15/89)]
LLCC 18-03-03	Inmate Visiting (DSU/ASU)
LLCC 20-01-01	Personal Property Control
LLCC 20-02-01	Authorized Inmate Personal Property
LLCC 20-03-01	Unauthorized Items
LLCC 20-04-02	Inmate Canteen
LLCC 20-04-03	Canteen Purchase Limits (Added 2/15/90)
LLCC 20-05-01	Inmate Control of Personal Funds
LLCC 20-05-02	Storage and Disposition of Monies Received on Weekends, Holidays, and Between 4 p.m. and 8 a.m. Weekdays
LLCC 20-06-01	Procedure for Sending Appliances to Outside Dealers for Repair
LLCC 21-02-01	Classification/Security Levels
LLCC 21-03-01	Classification Process
LLCC 22-01-01	OJT/Job Assignments
LLCC 23-01-01	Academic School
LLCC 26-01-01	Religious Services
LLCC 28-01-01	Privileged Trips
LLCC 28-03-01	Temporary Release/Community Center Release
LLCC 28-04-01	Preparole Progress Report
LLCC 28-04-02	Parole Eligibility Dates

JOHN T. WIGGINTON, Secretary
APPROVED BY AGENCY: February 15, 1990
FILED WITH LRC: February 15, 1990 at noon
PUBLIC HEARING: A public hearing on this regulation has been scheduled for March 26, 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: 274 employees of the Luther Luckett Correctional Complex, 1,034 inmates, and all visitors to state correctional institutions.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None - All of the costs involved with the implementation of the regulations are included in the operational budget.
2. Continuing costs or savings: Same as 2(a)1.
3. Additional factors increasing or decreasing costs: Same as 2(a)1.
(b) Reporting and paperwork requirements: Monthly submission of policy revisions.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. All policies are administered in a uniform manner.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 6:060. Northpoint Training Center.

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

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on February 15, 1990 [December 15, 1989] and hereinafter should be referred to as Northpoint Training Center Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601 or may be reviewed at the Office of General Counsel weekdays from 8 a.m. to 4:30 p.m.

NTC 01-03-01	Organization and Assignment of Responsibilities [(Amended 12/15/89)]
NTC 01-05-01	Extraordinary Occurrence Reports
NTC 01-10-01	Legal Assistance for Staff
NTC 01-11-01	Political Activities of Merit Employees
NTC 01-15-01	Establishment of the Warden as Chief Executive Officer
NTC 01-17-01	Relationships with Public, Media and Other Agencies
NTC 02-02-02	Warden's Participation in the Agency Budgeting Process
NTC 02-03-01	Fiscal Management: Audits
NTC 02-04-01	Internal Control and Monitoring of Accounting Procedures
NTC 02-07-02	Chapel Fund
NTC 02-08-01	Inmate Canteen [(Amended 12/15/89)]
NTC 02-10-01	Insurance Coverage
NTC 02-12-01	Inmate Personal Accounts
NTC 04-01-01	Training and Staff Development
NTC 04-04-01	Firearms and Chemical Agents Training
NTC 06-01-01	Offender Records
NTC 06-01-02	Records - Release of Information
NTC 06-01-03	Taking Offender Record Folders onto the Yard
NTC 08-05-01	The Fire and Safety Officer
NTC 08-05-02	Fire Procedures
NTC 08-05-03	Fire Prevention
NTC 08-05-04	Storage of Flammables and Dangerous Chemicals and Their Use
NTC 08-07-01	Safety Standards
NTC 10-01-01	Special Management Inmates (SMU) (Amended 2/15/90)
NTC 10-02-01	Security Guidelines for Special Management Inmates
NTC 10-03-01	Protective Custody
NTC 11-03-01	Food Services: General Guidelines
NTC 11-04-01	Food Service: Meals
NTC 11-04-02	Menu, Nutrition and Special Diets
NTC 11-05-02	Health Standards/Regulations for Food Service Employees
NTC 11-06-01	Inspections and Sanitation
NTC 11-07-01	Purchasing, Storage and Farm Products
NTC 12-01-01	Institutional Inspections
NTC 12-02-01	Personal Hygiene for Inmates; Clothing and Linens
NTC 12-02-02	Issuance of Personal Hygiene Products
NTC 13-01-01	Emergency Medical Care Plan
NTC 13-01-02	Emergency and Specialized Health Services
NTC 13-02-01	Administration and Authority for Health Services
NTC 13-03-01	Sick Call and Pill Call
NTC 13-04-01	Utilization of Pharmaceutical Products
NTC 13-05-01	Dental Services
NTC 13-06-01	Licensure and Training Standards
NTC 13-07-01	Provisions for Health Care Delivery
NTC 13-08-01	Medical and Dental Records
NTC 13-09-01	Special Diets
NTC 13-11-01	Inmate Health Screening and Evaluation
NTC 13-12-01	Special Health Care Programs
NTC 13-17-01	Inmates Assigned to Health Services
NTC 13-19-01	Mental Health Care Program
NTC 13-19-03	Suicide Prevention and Intervention Program
NTC 13-20-01	Infectious Disease
NTC 13-21-01	Vision Care/Optometry Services
NTC 13-22-01	Informed Consent
NTC 13-23-01	Special Needs Inmates
NTC 14-01-01	Legal Services Program
NTC 14-01-02	Receiving and Viewing of Video Tapes
NTC 14-02-01	Inmate Grievance Procedure
NTC 14-03-01	Inmate Rights and Responsibilities
NTC 14-03-02	Board of Claims
NTC 14-04-01	Inmate Search Policy [(Amended 12/15/89)]
NTC 15-01-01	Restoration of Forfeited Good Time
NTC 15-02-01	Due Process/Disciplinary Procedures (Amended 2/15/90)
NTC 15-02-02	Extra Duty Assignments
NTC 15-02-03	Hearing Officer
NTC 15-03-01	Rules for Inmates Assigned to Outside Detail
NTC 15-03-02	Rules and Regulations for General Population Dormitories
NTC 15-04-01	Inmate Identification
NTC 16-01-01	Mail Regulations
NTC 16-02-01	Visiting [(Amended 12/15/89)]
NTC 16-02-02	Extended and Special Visits
NTC 16-02-03	Honor Dorm Visiting [(Amended 12/15/89)]
NTC 16-03-01	Inmate Furloughs
NTC 16-05-01	Telephone Use and Control [(Amended 12/15/89)]
NTC 17-01-01	Personal Property Control
NTC 17-01-02	Authorized Inmate Personal Property
NTC 17-01-03	Unauthorized Inmate Property
NTC 17-01-04	Disposition of Unauthorized Property
NTC 17-03-01	Assessment/Orientation
NTC 18-01-01	Preparole Progress Report
NTC 18-02-01	Classification
NTC 18-02-02	Classification - 48 Hour Notification
NTC 18-03-01	Special Notice Form
NTC 18-05-01	Transfers of Inmates
NTC 18-05-02	Transfer of Inmates to Kentucky Correctional Psychiatric Center
NTC 19-01-01	Inmate Work Program
NTC 19-01-03	Temporary Leave from Job Assignment
NTC 19-02-01	Correctional Industries
NTC 19-02-02	Guidelines for Correctional Industries
NTC 20-01-01	Academic School Program

NTC 20-02-01	Vocational School
NTC 20-02-02	Live Work Projects in Vocational School Classes
NTC 21-01-01	Library Services
NTC 22-03-01	Conducting Inmate Organizational Meetings and Programs
NTC 23-01-01	Religious Services
NTC 24-04-01	Honor Status
NTC 24-05-01	Unit Management
NTC 25-01-01	Release Preparation Program
NTC 25-01-02	Temporary Release/Community Center Release
NTC 25-01-03	Graduated Release
NTC 25-02-01	Funeral Trips and Bedside Visits [(Amended 12/15/89)]
NTC 25-03-01	Inmate Release Procedure
NTC 26-01-01	Citizen Involvement and Volunteer Services Program

JOHN T. WIGGINTON, Secretary
APPROVED BY AGENCY: February 15, 1990
FILED WITH LRC: February 15, 1990 at noon
PUBLIC HEARING: A public hearing on this regulation has been scheduled for March 26, 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: 290 employees of the Northpoint Training Center, 920 inmates, and all visitors to state correctional institutions.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None - All of the costs involved with the implementation of the regulations are included in the operational budget.
2. Continuing costs or savings: Same as 2(a)1.
3. Additional factors increasing or decreasing costs: Same as 2(a)1.
(b) Reporting and paperwork requirements: Monthly submission of policy revisions.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. All policies are administered in a uniform manner.

CORRECTIONS CABINET
(Proposed Amendment)

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

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

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on February 15, 1990 [1989] and hereinafter should be referred to as Kentucky Correctional Institution for Women Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601 or may be reviewed at the Office of General Counsel on weekdays between 8 a.m. to 4:30 p.m.

KCIW 01-06-01	Legal Assistance for Corrections Staff
KCIW 01-08-01	News Media Access
KCIW 02-01-01	Comprehensive Insurance Coverage
KCIW 02-02-01	Fiscal Management: Audits
KCIW 02-02-03	Fiscal Management: Checks
KCIW 02-02-04	Institution Purchasing Procedures
KCIW 02-03-01	Inventory Control of Nonexpendable Personal Property
KCIW 02-03-03	Criteria for Selection of Bidders and Vendors
KCIW 02-04-01	Accounting Procedures
KCIW 02-05-01	Inmate Canteen/Staff Canteen
KCIW 02-07-01	Release of CETA Money Earned
KCIW 06-01-01	Inmate Records
KCIW 06-01-02	Transfers to Community Centers and the Minimum Security Unit
KCIW 06-01-03	Storage of Expunged Records
KCIW 10-01-01	Special Management Unit General Operation and Regulations (Amended 2/15/90)
KCIW 10-01-02	Special Management Unit Programs, Placement and Review
KCIW 10-01-04	Special Security Inmates
KCIW 11-01-01	Food Service Operation Inspections
KCIW 11-01-02	Budgeting, Accounting, and Purchasing Procedures for Food Products
KCIW 11-02-01	Menu Preparation/Special Diets
KCIW 11-03-01	General Guidelines for Food Service Workers
KCIW 11-03-02	General Guidelines for Food Service Workers
KCIW 11-04-01	Health Regulations and General Guidelines for the Food Service Area
KCIW 12-01-01	Control of Pests and Vermin
KCIW 12-02-01	Laundry Facilities/Clothing Issuance
KCIW 12-02-03	Donated Items
KCIW 12-04-01	Sanitation and General Living Conditions
KCIW 13-01-01	Provision of Medical and Dental Care

KCIW 13-01-02	Preliminary Health Screening and Appraisal
KCIW 13-01-03	Use of Pharmaceutical Products
KCIW 13-03-01	Emergency Care
KCIW 13-03-02	Infirmary Care and Outside Services
KCIW 13-03-03	Outside Hospital Security
KCIW 13-04-01	Medical Alert System
KCIW 13-04-02	Psychiatric/Psychological Services (Amended 2/15/90)
KCIW 13-06-01	Informed Consent
KCIW 13-07-01	Detoxification and Alcohol or Chemical Dependency Guidelines (Amended 2/15/90)
KCIW 13-08-01	Medical Exams for New Employees
KCIW 13-09-01	Suicide Prevention and Intervention Program
KCIW 13-11-01	Infection Control
KCIW 14-01-02	Inmate Rights
KCIW 14-02-01	Access to Attorneys and Designated Counsel Substitutes
KCIW 14-03-01	Inmates Are Not Subject to Discrimination Based on Race, Religion, National Origin, Sex, Handicap, or Political Beliefs
KCIW 14-04-01	Inmate Grievance Procedure
KCIW 15-01-01	Offenses and Penalties (Amended 2/15/90)
KCIW 15-01-02	Adjustment Committee Procedures and Programs (Amended 2/15/90)
KCIW 15-03-01	Inmate Rule Book
KCIW 15-04-01	Incentive Levels System
KCIW 15-06-01	Restriction Guidelines
KCIW 16-01-01	Inmate Correspondence
KCIW 16-01-02	Inmate Mail Distribution
KCIW 16-01-03	Staff Mail
KCIW 16-02-01	Inmate Access to Telephone
KCIW 16-02-02	Intra-Institution Phone Calls (Amended 2/15/90)
KCIW 16-03-01	Inmate Visiting Regulations
KCIW 16-03-02	Unauthorized Items for Picnic Lunches, Food Packages and Regular Packages
KCIW 16-04-01	Inmate Indigent Fund
KCIW 16-05-01	Commercial Vendor Packages, Appliance and Drug Store Orders
KCIW 17-01-01	Assessment Center Operation and Reception Programs
KCIW 17-01-02	Assessment/Classification Center Operations, Rules and Regulations
KCIW 17-01-03	Assessment and Classification Unit Property Guidelines
KCIW 17-02-01	Identification Department Admissions
KCIW 17-03-01	Notifying Inmates Families of Admission and Procedures for Mail and Visiting
KCIW 17-05-01	Inmate Personal Property Guidelines
KCIW 18-01-02	Institutional Housing Assignments
KCIW 18-02-01	Classification Procedures
KCIW 18-05-01	Special Needs Inmates
KCIW 18-06-01	Institutional Status Codes
KCIW 19-01-01	Inmate Work/Program Assignments
KCIW 19-03-01	Landscape and Maintenance Work Details
KCIW 20-01-01	Education Programs
KCIW 20-01-03	Vocational Education: Curriculum Flexible Schedule, Upgrade Programs and Release Preparation Program
KCIW 20-01-04	Entry - Exit Vocational School
KCIW 20-01-05	Vocational Programs: Approved, Assessed and Contain Guidelines for Vocational Records
KCIW 20-01-06	Vocational Education: Staffing Patterns/Requirements
KCIW 20-01-07	Vocational Counselor
KCIW 20-01-08	Vocational Education: Community Resources and the Integration with Academic Progress
KCIW 20-01-09	Vocational Education: Support Equipment
KCIW 20-01-10	Control of Flammable, Hazardous, Toxic and Caustic Materials in the Vocational Area
KCIW 22-01-04	Inmate Club Activities
KCIW 23-01-01	Religious Services
KCIW 25-01-01	Preparole Progress Report
KCIW 25-02-01	Temporary Release/Community Center
KCIW 25-02-02	Furloughs
KCIW 25-03-01	Escorted Leave into the Community

JOHN T. WIGGINTON, Secretary
APPROVED BY AGENCY: February 15, 1990
FILED WITH LRC: February 15, 1990 at noon
PUBLIC HEARING: A public hearing on this regulation has been scheduled for March 26, 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: 106 employees of the Kentucky Correctional Institution for Women, 286 inmates, and all visitors to state correctional institutions.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None - All of the costs involved with the implementation of the regulations are included in the operational budget.
2. Continuing costs or savings: Same as 2(a)1.
3. Additional factors increasing or decreasing costs: Same as 2(a)1.
(b) Reporting and paperwork requirements: Monthly submission of policy revisions.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. All policies are administered in a uniform manner.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 6:090. Frankfort Career Development Center.

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

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on February 15, 1990 [April 14, 1989] and hereinafter should be referred to as Frankfort Career Development Center Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601 or may be reviewed at the Office of General Counsel weekdays from 8 a.m. to 4:30 p.m.

FCDC 01-04-01	Confidentiality of Information Roles and Services of Consultant, Contract Personnel, Governmental Services Supervisors and Volunteers
FCDC 01-05-01	Duties and Responsibilities of FCDC Duty Officer
FCDC 02-09-01	Inmate Account Draw and Savings Deposit Transactions Between Inmates (Amended 2/15/90)
FCDC 02-10-01	Fiscal Management and Control (Amended 2/15/90) [(Amended 4/14/89)]
FCDC 02-11-01	Fiscal Management: Accounting Procedures [(Amended 4/14/89)]
FCDC 02-12-01	Fiscal Management: Checking Accounts
FCDC 02-13-01	Purchasing and Receiving
FCDC 06-02-01	Inmate Records (Amended 2/15/90)
FCDC 08-01-01	Fire Safety Practices
FCDC 09-01-02	Institutional Entry/Exit Surveillance and Perimeter Security Procedures (Amended 2/15/90)
FCDC 09-03-01	Control and Accountability of Flammable Toxic, Caustic and Other Hazardous Materials
FCDC 09-06-08	Searches and Contraband Control
FCDC 11-01-01	Special Diets
FCDC 11-02-01	Menu Preparation
FCDC 11-03-01	Food Services (Amended 2/15/90)
FCDC 12-03-01	Laundry, Clothing, Hygiene and Grooming Services
FCDC 12-04-01	Sanitation Practices and Inspections
FCDC 13-01-01	Use of Pharmaceutical Products
FCDC 13-01-02	Medical Emergencies (Amended 2/15/90)
FCDC 13-01-03	Informed Consent
FCDC 13-02-01	Inmate Medical Screenings and Health Evaluations (Amended 2/15/90)
FCDC 13-03-01	Psychiatric and Psychological Services
FCDC 13-03-02	Parental Administration of Medications and Use of Psychotropic Drugs
FCDC 13-04-01	Intrasystem Transfers of Medical/Psychiatric Problems (Amended 2/15/90)
FCDC 13-05-01	Family Notification: Serious Illness, Injury or Major Surgery
FCDC 13-06-01	Chronic and Convalescent Care
FCDC 13-08-01	Sick Call/Physician's Bimonthly Clinic (Amended 2/15/90)
FCDC 13-09-01	Management of Serious and Infectious Diseases (Amended 2/15/90)
FCDC 13-10-01	Treatment Protocol Regarding First-Aid Procedures, Routine Health Care
FCDC 13-11-01	Health Education: Provision of Special Health Care Needs
FCDC 13-12-01	Elective Services
FCDC 13-13-01	Physicians Referrals
FCDC 13-14-01	Health Records
FCDC 13-15-01	Routine and Emergency Dental Appointments (Amended 2/15/90)
FCDC 13-16-01	Routine and Emergency Eye Examinations
FCDC 13-17-01	Inmate Death
FCDC 14-01-01	Prohibiting Inmate Authority Over Other Inmates
FCDC 14-02-01	Inmate Grievance System [(Amended 4/14/89)]
FCDC 14-03-01	Inmates Are Not Subject to Discrimination Based on Race, Religion, National Origin, Sex, Handicap or Political Beliefs and Are Protected Against Corporal Punishment
FCDC 14-04-01	Legal Services Program
FCDC 15-01-01	Good Time - Credits
FCDC 15-03-01	Conduct of Adjustment Committee Hearings (Chairperson) (Amended 2/15/90)
FCDC 15-04-01	Prehearing Detention and Protective Custody Requests
FCDC 16-01-01	Inmate Visiting (Amended 2/15/90)
FCDC 16-02-01	Mail Policy
FCDC 16-03-01	Inmate Access to Telephones
FCDC 17-01-01	Inmate Property Control (Amended 2/15/90)
FCDC 17-02-01	Inmate Reception, Orientation, and Discharge
FCDC 18-01-01	Inmate Classification [(Amended 4/14/89)]
FCDC 18-02-01	Reclassification Document [(Amended 4/14/89)]
FCDC 18-03-01	Instructions for Six Month Review [(Amended 4/14/89)]
FCDC 19-01-01	Security and Operation of the Governmental Services Program
FCDC 19-02-01	Inmate Work Program
FCDC 20-01-01	Academic and Vocational Education (Amended 2/15/90)
FCDC 22-01-01	Privilege Trips
FCDC 22-01-02	Activity Trips
FCDC 22-02-01	Recreation and Inmate Activities (Amended 2/15/90)
FCDC 23-01-01	Religious Activities [(Amended 4/14/89)]
FCDC 24-01-01	Social Service Program
FCDC 24-02-01	Substance Abuse Programs
FCDC 25-01-01	Escorted Leaves
FCDC 25-02-01	Temporary Release/Community Center Program
FCDC 25-03-01	Release Preparation Program

JOHN T. WIGGINTON, Secretary
APPROVED BY AGENCY: February 15, 1990
FILED WITH LRC: February 15, 1990 at noon
PUBLIC HEARING: A public hearing on this regulation has been scheduled for March 26, 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: 43 employees of the Frankfort Career Development Center, 180 inmates, and all visitors to state correctional institutions.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None - All of the costs involved with the implementation of the regulations are included in the operational budget.
2. Continuing costs or savings: Same as 2(a)1.
3. Additional factors increasing or decreasing costs: Same as 2(a)1.
(b) Reporting and paperwork requirements: Monthly submission of policy revisions.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. All policies are administered in a uniform manner.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 6:110. Roederer Farm Center.

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

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on February 15, 1990 [January 13, 1989] and hereinafter should be referred to as Roederer Farm Center Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601 or may be reviewed at the Office of General Counsel weekdays from 8 a.m. to 4:30 p.m.

RFC 01-04-02	Extraordinary Occurrence Procedure (Amended 2/15/90)
RFC 01-06-01	Inmate Access to and Communication with RFC Staff (Amended 2/15/90)
RFC 01-07-01	Institutional Legal Assistance (Amended 2/15/90)
RFC 01-08-01	Public Information and News Media Access
RFC 01-09-01	Staff Participation in Professional Organization and Conferences; Provisions for Leave and Reimbursement for Expenses
RFC 01-10-01	RFC Cooperation with Outside Bodies Including Courts, Governmental Legislative, Executive, and Community Agencies
RFC 01-12-01	Institutional Duty Officer - Responsibilities
RFC 02-01-01	Fiscal Management: Organization (Amended 2/15/90)
RFC 02-01-02	Fiscal Management: Accounting Procedures (Amended 2/15/90)
RFC 02-01-03	Fiscal Management: Agency Funds (Amended 2/15/90)
RFC 02-01-04	Fiscal Management: Insurance (Amended 2/15/90)
RFC 02-02-01	Fiscal Management: Budget (Amended 2/15/90)
RFC 02-02-02	Inmate Control of Personal Funds (Amended 2/15/90) [(Amended 1/3/89)]
RFC 02-02-03	Storage and Disposition of Monies received on Weekends, Holidays, and Between 4 p.m. and 8 a.m. Weekdays (Amended 2/15/90)
[RFC 02-02-04	Inmate Accounts (Amended 1/3/89) (Deleted 2/15/90)]
RFC 02-02-05	Inmate Canteen Services (Added 2/15/90)
RFC 02-03-01	Fiscal Management: Audits (Amended 2/15/90)
RFC 02-04-01	Purchase Orders (Amended 2/15/90)
RFC 02-04-02	Processing of Invoices (Amended 2/15/90)
RFC 02-06-01	Property Inventory (Amended 2/15/90)
RFC 03-13-01	Staff/Visitor Meals
RFC 04-01-01	Employee Training and Development (Amended 2/15/90)
RFC 05-01-01	Information System (Amended 2/15/90)
RFC 06-01-01	Offender Records (Amended 2/15/90)
RFC 06-02-01	Use of Inmate Records/Security of Inmate Records
RFC 06-03-01	Records Release of Information
RFC 06-03-02	Storage of Expunged Records
RFC 06-03-04	Access to Psychological and Psychiatric Reports [(Added 1/13/89)]
RFC 06-04-01	Court Trips
RFC 06-04-02	Receipt of Order of Appearance
RFC 08-01-01	Fire Prevention
RFC 08-02-01	Fire Procedures (Amended 2/15/90)
RFC 08-02-02	Fire Extinguishers and Their Use
RFC 08-08-01	Hazardous Communication Program (Amended 2/15/90)

RFC 09-04-03 Duties and Responsibilities of the Fire Safety Officer
RFC 09-06-01 Search Policy/Disposition of Contraband (Amended 2/15/90)
RFC 09-09-02 Drug Abuse Testing (Amended 2/15/90)
RFC 09-09-03 Breathalyzer (Amended 2/15/90)
RFC 09-14-01 Restricted Areas (Amended 2/15/90)
RFC 09-22-01 Use of Force (Amended 2/15/90) [(Amended 1/3/89)]
RFC 09-24-01 Informants (Amended 2/15/90)
RFC 10-01-01 Special Management Inmates (Amended 2/15/90)
RFC 10-01-02 Temporary Holding Cell Guidelines (Added 2/15/90)
RFC 11-01-01 Food Services: General Guidelines (Amended 2/15/90)
RFC 11-02-01 Food Service: Security (Amended 2/15/90)
RFC 11-03-01 Dining Room Guidelines (Amended 2/15/90)
RFC 11-04-01 Food Service: Meals
RFC 11-04-02 Food Service: Menu, Nutrition and Special Diets
RFC 11-05-01 Food Service: Kitchen and Dining Room Inmate Work Responsibilities
RFC 11-05-02 Medical Screening of Food Handlers
RFC 11-06-01 Food Service: Inspections and Sanitation
RFC 11-07-01 Food Service: Purchasing, Storage and Farm Products
RFC 11-08-01 Staff/Visitor Meals
RFC 12-01-01 Sanitation, Living Conditions Standards, Clothing Issues (Amended 2/15/90)
RFC 12-01-02 Bed Areas [- Assignment/Condition Standards] (Amended 2/15/90)
RFC 12-02-01 Issuance of Clean Laundry and Receiving of Dirty Laundry
RFC 12-03-01 Personal Hygiene Items: Issuance and Placement Schedule (Amended 2/15/90)
RFC 12-03-02 Barber Shop Services and Equipment Control (Amended 2/15/90)
RFC 12-04-01 Institutional Inspections (Amended 2/15/90)
RFC 12-05-01 Fire Safety (Amended 2/15/90)
RFC 12-05-02 Use of Noncombustible Receptacle (Amended 2/15/90)
RFC 12-06-01 Insect and Vermin Control (Amended 2/15/90)
RFC 13-01-01 Organization of Health Services (Amended 2/15/90)
RFC 13-02-01 Health Maintenance Services: Sick Call and Pill Call (Amended 2/15/90) [(Amended 1/3/89)]
RFC 13-03-01 Dental Policy/Sick Call (Amended 2/15/90)
RFC 13-04-01 Inmate Medical Screenings and Health Evaluations (Amended 2/15/90)
RFC 13-05-02 Licensure and Training Standards (Amended 2/15/90)
RFC 13-06-01 Suicide Prevention and Intervention Program
RFC 13-06-02 First Aid and CPR Training Program
RFC 13-06-03 Emergency Medical and Dental Care Services (Amended 2/15/90) [(Amended 1/3/89)]
RFC 13-06-04 First Aid/CPR Training Program
RFC 13-07-01 Health Records
RFC 13-07-03 Use of Pharmaceutical Products
RFC 13-08-01 Special Diets (Amended 2/15/90)
RFC 13-09-01 Notification of Inmate Family in the Event of Serious Illness, Surgery, or Inmate Death
RFC 13-10-01 Health Education/Special Health Programs (Amended 2/15/90)
RFC 13-11-01 Informed Consent
RFC 13-12-01 Mental Health/Provision of Psychiatric Services by KCPC
RFC 13-12-02 Transfer of Inmates to Kentucky Correctional Psychiatric Center
RFC 13-13-01 Identification of Special Needs Inmates (Amended 2/15/90)
RFC 13-15-01 Medical Restraints
RFC 13-16-01 Specialized Health Services (Amended 2/15/90) [(Amended 1/3/89)]
RFC 13-17-01 Vision Care and Optometry Services (Amended 2/15/90)
RFC 13-18-01 Serious and Infectious Diseases
RFC 14-01-01 Inmate Rights and Responsibilities
RFC 14-02-01 Legal Services Program (Amended 2/15/90)
RFC 14-03-01 Inmate Grievance Procedure [(Amended 1/3/89)]
RFC 14-04-01 Inmate Participation in Authorized Research
RFC 15-01-01 Adjustment Procedures (Amended 2/15/90) [Due Process and Disciplinary Procedures]
RFC 15-02-01 Prehearing Detention and Protective Custody
RFC 16-01-01 Inmate Visiting (Amended 2/15/90) [(Amended 1/3/89)]
RFC 16-02-01 Telephone Communications (Amended 2/15/90)
RFC 16-03-01 Mail Regulations (Amended 2/15/90) [(Amended 1/3/89)]
RFC 16-03-02 Christmas Packages (Amended 2/15/90) [(Amended 1/3/89)]
RFC 17-01-01 Assessment/Orientation Procedure for Intrasystem Transfers (Amended 2/15/90)
RFC 17-02-01 Inmate Reception Process (Amended 2/15/90)
RFC 17-03-01 Inmate Personal Property and Property Control (Amended 2/15/90) [(Amended 1/3/89)]
RFC 17-04-01 Unauthorized Items
[RFC 17-05-01 Inmate Canteen (Deleted 2/15/90)]
RFC 17-05-02 Housing Unit Assignment Assessment/ Classification Center (Added 2/15/90)
RFC 17-05-03 Notifying Inmate's Families of Admission and Procedures for Mail and Visiting (Added 2/15/90)
RFC 17-05-04 Assessment Center Operations Rules and Regulations (Added 2/15/90)
RFC 17-05-05 Assessment Center Operations and Reception Programs (Added 2/15/90)
RFC 18-01-01 Institutional Classification Committee (Amended 2/15/90)
[RFC 18-02-01 Classification/Security Levels (Deleted 2/15/90)]
RFC 18-03-01 Classification Process (Amended 2/15/90)
RFC 18-03-02 Classification Program Planning (Amended 2/15/90)
[RFC 18-03-03 Honor's Program (Deleted 2/15/90)]
RFC 18-04-01 Instruction for Case [Six Month] Reviews (Amended 2/15/90)
RFC 18-05-01 Transfers to Other [Minimum Security] Institutions (Amended 2/15/90)
RFC 18-06-01 Classification Document (Amended 2/15/90)

RFC 19-01-01 Job Assignments (Amended 2/15/90)
RFC 19-02-01 Government Service Details (Amended 2/15/90)
RFC 20-01-01 Academic Education Program (Amended 2/15/90) [(Amended 1/3/89)]
RFC 20-01-02 Testing and Verification Procedure (Amended 2/15/90)
[RFC 20-02-01 Correctional Educator Senior (Deleted 2/15/90)]
RFC 21-01-01 Library Services (Amended 2/15/90) [(Amended 1/3/89)]
RFC 22-01-01 Recreation and Inmate Activities (Amended 2/15/90)
RFC 22-01-02 Recreational Equipment Check-in/Check-out Procedure (Amended 2/15/90)
[RFC 22-02-01 Outside Recreation (Deleted 2/15/90)]
[RFC 22-02-02 Entry/Exit Procedure for Inmate Outside Recreation (Deleted 2/15/90)]
RFC 22-03-01 Inmate Clubs and Organizations (Amended 2/15/90)
RFC 22-03-02 Privilege Trips
RFC 22-04-01 Conducting Inmate Organizational Meetings and Programs
[RFC 22-06-01 Playing Cards (Deleted 2/15/90)]
RFC 23-01-01 Religious Services (Amended 2/15/90)
[RFC 23-02-01 Security Procedures for the Chapel (Deleted 2/15/90)]
RFC 23-03-01 Visitors for Religious Programs (Amended 2/15/90)
RFC 23-04-01 Marriage of Inmates (Amended 2/15/90)
RFC 24-01-01 Social Services and Counseling Program (Amended 2/15/90)
RFC 25-01-01 Expedient and Prerelease Preparation Program Description
RFC 25-02-01 Temporary Release or Community Center Release [(Amended 1/3/89)]
RFC 25-03-01 Furloughs (Amended 2/15/90) [(Amended 1/3/89)]
RFC 25-04-01 Preparole Progress Report
RFC 25-04-02 Parole Eligibility Dates
RFC 25-05-01 Inmate Discharge Procedure
RFC 26-01-01 Citizen Involvement and Volunteer Services Program (Amended 2/15/90)

JOHN T. WIGGINTON, Secretary
APPROVED BY AGENCY: February 15, 1990
FILED WITH LRC: February 15, 1990 at noon
PUBLIC HEARING: A public hearing on this regulation has been scheduled for March 26, 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: 96 employees of the Roederer Farm Center, 252 inmates, and all visitors to state correctional institutions.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None - All of the costs involved with the implementation of the regulations are included in the operational budget.
2. Continuing costs or savings: Same as 2(a)1.
3. Additional factors increasing or decreasing costs: Same as 2(a)1.
(b) Reporting and paperwork requirements: Monthly submission of policy revisions.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. All policies are administered in a uniform manner.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 6:120. Blackburn Correctional Complex.

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

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on February 15, 1990 [October 13, 1989] and hereinafter should be referred to as Blackburn Correctional Complex and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601 or may be reviewed at the Office of General Counsel weekdays 8 a.m. to 4:30 p.m.

BCC 01-05-01 Duty Officer and Acting Warden
BCC 01-07-01 Extraordinary Occurrence Reports
BCC 01-09-01 Legal Assistance for Staff
BCC 01-11-01 Roles of Consultants, Contract Employees, Volunteers and Employees of Other Agencies
BCC 01-13-01 Relationships with Public, Media, and Other Agencies
BCC 01-15-01 Internal Affairs Office
BCC 01-16-01 Tours of Blackburn Correctional Complex
BCC 01-19-01 Inmate Access to BCC Staff
BCC 02-01-01 Inmate Canteen
BCC 02-02-01 Fiscal Responsibility
BCC 02-02-02 Fiscal Management: Accounting Procedures
BCC 02-02-03 Fiscal Management: Checks

BCC 02-02-04	Fiscal Management: Budget
BCC 02-02-05	Fiscal Management: Insurance
BCC 02-02-06	Fiscal Management: Audits
BCC 02-04-01	Billing Method for Health Services Staff Paid by Personal Service Contract
BCC 02-05-01	Property Inventory
BCC 02-06-01	Purchasing
BCC 02-07-01	Inmate Personal Accounts
BCC 04-02-01	Firearms Training
BCC 04-03-01	Educational Assistance Program
BCC 05-01-01	Inmate Participation in Authorized Research
BCC 06-01-01	Storage of Expunged Records
BCC 06-02-01	Records - Release of Information
BCC 06-02-02	Offender Records
BCC 06-03-01	Reporting Inmate Misconduct Following Favorable Recommendation by the Parole Board
BCC 08-02-01	Natural Disaster Plan (Tornado)
BCC 08-03-01	Emergency Preparedness Plan Manual
BCC 08-04-01	Fire Safety Plan, Drills and Related Staff Duties
BCC 08-04-02	Immediate Release of Inmates from Locked Areas
BCC 08-05-01	Duties of Fire Safety Officer
BCC 08-06-01	Storage Control and Accountability of Flammable, Toxic, Caustic and Other Hazardous Materials
BCC 08-07-01	Facility Furnishings: Exit and Emergency Lights and Noncombustible Containers
BCC 09-01-01	Inclement Weather/Emergency Condition Operation
BCC 09-02-01	Restricted Areas
BCC 09-02-02	Inmate Pass System to Restricted Areas
BCC 09-02-03	Regulation of Inmate Movement
BCC 09-02-04	Radio Escorted Yard Movement During Daylight Savings Time (November 1 - April 30)
BCC 09-03-01	Inmate Identification
BCC 09-04-02	Complex Entry & Exit
BCC 09-05-01	Key Control
BCC 09-06-02	Transportation to Courts
BCC 09-07-01	Drug Abuse and Intoxicants Testing
BCC 09-08-02	Use of Restraints [(Amended 10/13/89)]
BCC 09-09-01	Population Counts and Count Documentation [(Amended 10/13/89)]
BCC 09-10-03	Development of Institutional Post Orders
BCC 09-10-04	Governmental Services, Study Release Officer Post Orders
BCC 09-10-05	Unit A-1 Post Orders
BCC 09-10-06	Recreation Post Orders: Observation
BCC 09-10-07	Entrance Gate Post Orders
BCC 09-10-08	Visiting Area Post Orders
BCC 09-10-09	Security Staff General Orders
BCC 09-10-10	Dining Room Officer Post Orders
BCC 09-12-01	Use of Physical Force; Prohibition of Personal Abuse and Corporal Punishment
BCC 09-13-01	Perimeter Patrol
BCC 09-14-01	Prohibiting Inmate Authority Over Other Inmates
BCC 09-15-01	Search Policy/Disposition of Contraband
BCC 09-16-01	Security Activity Logs
BCC 09-17-01	Institutional Supervisor Inspections
BCC 09-18-01	Use of State Vehicles and Staff Owned Vehicles
BCC 09-19-01	Duties and Responsibilities of the Institutional Captain
BCC 09-19-02	Duties and Responsibilities of the Shift Supervisor
BCC 09-20-01	Inmate Death
BCC 09-21-01	Tool Control
BCC 09-22-01	Emergency Communication System
BCC 10-01-01	Special Management Inmates [(Amended 10/13/89)]
BCC 10-01-02	Short-Term Administrative Segregation Holding Area (Added 2/15/90)
BCC 11-01-01	Menu and Special Diets
BCC 11-02-01	Food Service: Inspection, Health Protection and Sanitation
BCC 11-03-01	Food Service: Meals
BCC 11-04-01	Dining Room Guidelines
BCC 11-05-01	Food Service Security: Knife & Other Sharp Instrument/Utensil Control
BCC 11-06-01	Purchasing, Storage and Farm Products
BCC 11-07-01	Food Service Operations Manual
BCC 12-02-01	Personal Hygiene Items
BCC 12-02-02	Personal Hygiene for Inmates: Clothing, Linens and Shower Facilities
BCC 12-05-01	Barber Shop Services
BCC 12-06-01	BCC Housekeeping Plan
BCC 13-01-01	Sick Call and Pill Call
BCC 13-02-01	Administration and Authority for Health Services
BCC 13-03-01	Provisions of Health Care Delivery
BCC 13-04-01	Licensure and Training Standards
BCC 13-05-01	Medical Alert System
BCC 13-06-01	Health Care Practices
BCC 13-07-01	Emergency Medical Care Plan
BCC 13-07-02	Emergency and Specialized Health Services
BCC 13-07-03	Immediate Medical Treatment for Person's Injured by Weapon or Chemical Agent
BCC 13-08-01	Inmate Health Screening and Evaluation
BCC 13-09-01	Prohibition on Medical Experimentation
BCC 13-10-01	Dental Services
BCC 13-11-01	Suicide Prevention and Intervention Program
BCC 13-12-01	Use of Pharmaceutical Products
BCC 13-12-02	Parenteral Administration of Medications and Use of Psychotropic Drugs
BCC 13-13-01	Inmate Health Education
BCC 13-14-01	Management of Serious and Infectious Diseases
BCC 13-15-01	Informed Consent
BCC 13-16-01	Health Records
BCC 13-17-01	Notification of Inmate Family in the Event of Serious Illness, Injury or Surgery
BCC 13-19-01	Physicians Referrals/Continuity of Care
BCC 13-20-01	Chronic and Convalescent Care
BCC 13-22-01	Psychiatric and Psychological Services, Handling of Mentally Retarded Inmates and Transfers
BCC 13-23-01	First Aid Kits
BCC 14-01-01	Office of Public Advocacy Attorney Visits
BCC 14-02-01	Law Library
BCC 14-03-01	Inmate Grievance Procedure
BCC 14-04-01	Inmate Rights and Responsibilities
BCC 14-05-01	Inmate Claims

BCC 14-06-01	Legal and Support Services for Indigent Inmates
BCC 15-02-01	Meritorious Living Unit (B-1)
BCC 15-02-02	Room Assignment
BCC 15-03-01	Rules and Regulations for Dormitories
BCC 15-04-01	Restoration of Forfeited Good Time [(Amended 10/13/89)]
BCC 15-05-01	Extra Duty Assignments
BCC 15-06-01	Due Process/Disciplinary Procedures (Amended 2/15/90) [(Amended 10/13/89)]
BCC 16-01-01	Inmate Furloughs
BCC 16-02-01	Visiting
BCC 16-03-01	Inmate Packages
BCC 16-03-02	Outgoing Inmate Packages
BCC 16-03-03	Inmate Correspondence
BCC 17-02-01	Authorized Inmate Personal Property [(Amended 10/13/89)]
BCC 17-03-01	Processing of New Inmates From Local Jails
BCC 18-01-01	Classification: Institutional Classification and Reclassification
BCC 18-02-01	Racial Balance in Living Areas
BCC 19-01-01	Inmate Work Programs
BCC 19-02-01	Classification of Inmates to Governmental Service Program [(Amended 10/13/89)]
BCC 19-03-01	Correctional Industries [(Amended 10/13/89)]
BCC 20-01-01	Academic and Vocational School
BCC 20-02-01	College Programs
BCC 20-04-01	Educational Program Evaluation
BCC 20-05-01	Educational Program Planning
BCC 20-06-01	Academic and Vocational Curriculum
BCC 21-01-01	Library Services
BCC 22-01-01	Arts and Crafts/Production and Sale of Items
BCC 22-02-01	Privileged Trips [(Amended 10/13/89)]
BCC 22-03-01	Recreational Employees
BCC 22-04-01	Recreation and Inmate Activities
BCC 22-04-02	Inmate Clubs and Organizations
BCC 22-04-03	Conducting Inmate Organizational Meetings and Programs
BCC 22-04-04	Recreation Program Availability
BCC 22-04-05	Supervision of Leisure-time Craft Club Activities and Materials
BCC 22-06-01	Music Club
BCC 22-08-01	Unit Recreation Program
BCC 22-09-01	Use of Inmates in Recreation Programs
BCC 23-01-01	Religious Services
BCC 24-01-01	Duties and Responsibilities of Classification and Treatment Officers [(Amended 10/13/89)]
BCC 24-02-01	Duties and Responsibilities of the Unit Director and Assistant to Unit Director
BCC 24-03-01	Social Services
BCC 25-01-01	Inmate Check Out Procedure
BCC 25-02-02	Temporary Release/Community Center Release
BCC 25-05-01	Supplemental Preparole Progress Reports
BCC 26-01-01	Citizen Involvement and Volunteer Service Program

JOHN T. WIGGINTON, Secretary
APPROVED BY AGENCY: February 15, 1990
FILED WITH LRC: February 15, 1990 at noon
PUBLIC HEARING: A public hearing on this regulation has been scheduled for March 26, 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: 95 employees of the Blackburn Correctional Complex, 390 inmates, and all visitors to state correctional institutions.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None - All of the costs involved with the implementation of the regulations are included in the operational budget.
2. Continuing costs or savings: Same as 2(a)1.
3. Additional factors increasing or decreasing costs: Same as 2(a)1.
(b) Reporting and paperwork requirements: Monthly submission of policy revisions.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. All policies are administered in a uniform manner.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 6:130. Western Kentucky Farm Center.

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

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on February 15, 1990 [July 14, 1989] and hereinafter should be referred to as Western Kentucky Farm Center Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601 or may be reviewed at the Office

of General Counsel weekdays from 8 a.m. to 4:30 p.m.

WKFC 01-09-01	Duty Officers, External and Internal Inspections, and Staff Tours
WKFC 02-01-01	Inmate Funds
WKFC 02-00-03	Invoice/Voucher Processing
WKFC 02-00-06	Purchasing Procedures
WKFC 02-01-01	Inmate Funds
WKFC 02-02-01	Agency Funds and Accounting Procedures
WKFC 02-08-01	Property Receipt and Inventory Procedures
WKFC 04-01-01	Travel Reimbursement for Official Business in Attendance at Professional Meetings
WKFC 04-02-01	Employee Training and Development
WKFC 04-04-01	Educational Assistance Program
WKFC 05-01-01	Research, Consultants, and Student Interns
WKFC 06-00-01	Offender Records and Information Access
WKFC 06-00-02	Court Orders, Orders of Appearance, Warrants, Detainers, Etc.
WKFC 09-00-01	Drug Abuse Testing (Amended 2/15/90)
WKFC 10-02-01	Special Management Inmates (Amended 2/15/90)
WKFC 11-00-02	Food Service Inmate Work Responsibilities, Evaluations, and Health Requirements
WKFC 11-00-03	Food Service Inspections, Sanitation, Purchasing, Storage, and Corrections Cabinet Farm Products
WKFC 11-02-01	Food Service General Guidelines
WKFC 11-02-02	Food Service Security
WKFC 11-03-01	Food Service Meals, Menus, Nutrition and Special Diets
WKFC 12-01-01	Inmate Clothing
WKFC 13-00-01	Special Health Programs
WKFC 13-01-01	Use of Pharmaceutical Products
WKFC 13-02-01	Health Care Services
WKFC 14-00-01	Inmate Rights and Responsibilities
WKFC 14-04-01	Legal Services Program (Amended 2/15/90)
WKFC 14-06-01	Inmate Grievance Procedure
WKFC 15-01-01	Hair and Grooming Standards
WKFC 15-02-01	Inmate Offenses and Penalties (Added 2/15/90)
WKFC 15-03-01	Meritorious Good Time
WKFC 15-05-01	Restoration of Forfeited Good Time
WKFC 15-06-01	Adjustment Procedures and Programs (Added 2/15/90)
WKFC 16-01-01	Visiting Policy and Procedures
WKFC 16-02-01	Inmate Correspondence
WKFC 16-03-01	Inmate Access to Telephones
WKFC 16-04-01	Inmate Packages
WKFC 17-01-01	Inmate Personal Property
WKFC 17-02-01	Inmate Reception and Orientation (Amended 2/15/90)
WKFC 18-01-01	Structure, Guidelines, and Functions of the Classification Committee
[WKFC 18-13-01	Meritorious Housing (Deleted 2/15/90)]
WKFC 19-03-01	Inmate Wage Program [(Amended 7/14/89)]
WKFC 19-04-01	Work/Program Assignments
WKFC 20-04-01	Academic Education Program(s)
WKFC 20-03-01	Vocational Education Program(s)
WKFC 22-00-01	Inmate Recreation and Leisure Time Activities
WKFC 22-00-02	Inmate Clubs & Organizations
WKFC 23-00-01	Religious Services (Amended 2/15/90)
WKFC 25-01-01	Gratuities
WKFC 25-02-01	Inmate Release Process
WKFC 25-03-01	Prerelease Programs
WKFC 26-01-01	Volunteer Services Program

JOHN T. WIGGINTON, Secretary
APPROVED BY AGENCY: February 15, 1990
FILED WITH LRC: February 15, 1990 at noon
PUBLIC HEARING: A public hearing on this regulation has been scheduled for March 26, 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: 168 employees of the Western Kentucky Farm Center, 324 inmates, and all visitors to state correctional institutions.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None - All of the costs involved with the implementation of the regulations are included in the operational budget.
2. Continuing costs or savings: Same as 2(a)1.
3. Additional factors increasing or decreasing costs: Same as 2(a)1.
(b) Reporting and paperwork requirements: Monthly submission of policy revisions.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. All policies are administered in a uniform manner.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 6:150. 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 February 15 [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 01-09-01 Duty Officer Responsibilities (Added 2/15/90)
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 08-02-02 Fire Procedures (Added 2/15/90)
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 09-06-01 Unauthorized Items (Added 2/15/90)
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 09-14-01 Count Procedures (Added 2/15/90)
EKCC 09-15-01 Standards for Maintaining Perimeter Safety
EKCC 09-15-02 Lobby/Reception: Entry and Exit Procedure (Added 2/15/90)
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 09-26-01 Security Activity Logs (Added 2/15/90)
EKCC 10-02-01 Special Management Unit: Operating Procedures and Living Conditions (Added 2/15/90)
EKCC 10-02-02 Special Management Inmates: Assignment, Classification, Reviews and Release (Added 2/15/90)
EKCC 12-01-01 Vermin and Insect Control
EKCC 12-02-01 Inmate Dress and Use of Access Areas (Added 2/15/90)
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 15-06-01 Due Process/Disciplinary Procedure (Added 2/15/90)
EKCC 16-01-01 Inmate Visiting (Added 2/15/90)
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 17-01-01 Authorized Inmate Personal Property (Added 2/15/90)
EKCC 17-01-02 Personal Property Control (Added 2/15/90)
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 25-06-01 Community Center Program (Added 2/15/90)
EKCC 26-01-01 Citizens Involvement and Volunteers

JOHN T. WIGGINTON, Secretary
APPROVED BY AGENCY: February 15, 1990

FILED WITH LRC: February 15, 1990 at noon
PUBLIC HEARING: A public hearing on this regulation has been scheduled for March 26, 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: 213 employees of the Eastern Kentucky Correctional Complex, 15 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.

JUSTICE CABINET
Kentucky Law Enforcement Council
(Proposed Amendment)

503 KAR 1:090. Approval of course curriculums.

RELATES TO: KRS 15.330(1)(a)
STATUTORY AUTHORITY: KRS 15A.160
NECESSITY AND FUNCTION: KRS 15.330(1)(a) authorizes the Kentucky Law Enforcement Council to prescribe standards for the approval and continuation of approval of schools which conduct law enforcement training courses required by KRS 15.440 for police officers in order for them to gain or retain eligibility to participate in the Law Enforcement Foundation Program Fund, including minimum standards for curriculums for such courses. This regulation prescribes standards and procedures for such approval.

Section 1. Council Authority. The council shall have the authority to review all curriculums for all law enforcement courses to be provided by all schools certified by the council. The council shall have the authority to require all such curriculums to indicate, and to justify, the "passing" performance level on all graded exercises in the course.

Section 2. Submission Requirements. All proposed curriculums or proposed amendments to previously approved curriculums shall be received by the council at least thirty (30) days prior to the date of anticipated review. (The curriculum approval form - KLEC Form 31 - is available from, and should be submitted to, the Kentucky Law Enforcement Council, Third Floor, Commonwealth Credit Union Building, High Street, Frankfort, Kentucky 40601.)

Section 3. School Endorsement. All course curriculums and amendments to course curriculums submitted by a school shall be endorsed by the director of the school or his designee.

Section 4. Approval Procedure. Upon review of the proposed course curriculum or curriculum amendment, the council shall vote whether to approve, approve subject to stated conditions, or disapprove. Course curriculum approval shall last for only three (3) years; curriculums approved before the effective day of this regulation shall remain approved until three (3) years after the effective date. Curriculums which are to be continued shall be resubmitted for approval at least thirty (30) [ninety (90)] days before the council meeting which occurs last before the expiration of the three (3) year period.

Section 5. Notification of Council Action. Within sixty (60) [thirty (30)] days of the council's vote, the council shall notify in writing the school which submitted the curriculum [and the fund administrator] whether the curriculum or curriculum amendment was approved. A copy of all approved curriculum applications (whether originals or renewals), approved curriculum amendment applications (both with attachments), and all approved applications for certification as a school, signed and dated by the executive director of the Kentucky Law Enforcement Council, shall be mailed to the administrator of the Kentucky Law Enforcement Foundation Program Fund.

W. MICHAEL TROOP, Secretary
APPROVED BY AGENCY: January 5, 1990
FILED WITH LRC: February 12, 1990 at 3 p.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on March 27, 1990 at 10 a.m. at Room 352 Stratton Building, Kit Carson Drive, Richmond, Kentucky 40475. Individuals interested in attending this hearing shall notify this agency in writing by March 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: A. Jack May, Director, Administrative Division, Department of Criminal Justice Training, Kit Carson Drive, Richmond, Kentucky 40475-3131. (606)622-1023.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: A. Jack May

(1) Type and number of entities affected: The entities affected are certified law enforcement training schools in Kentucky, being four in number, and the Kentucky Law Enforcement Council, the law enforcement training certifying agency.

(a) Direct and indirect costs or savings to those affected: The only costs involved are those mailing costs in submitting copies of approved curriculums by the Kentucky Law Enforcement Council to the administrator of the Kentucky Law Enforcement Foundation Program Fund of approximately $20 annually.

1. First year: Approximately $20.

2. Continuing costs or savings: Same annual cost of approximately $20.

3. Additional factors increasing or decreasing costs (note any effects upon competition): The mailing costs will increase or decrease dependent on the number of proposed training curriculums which may be submitted to the council and approved.

(b) Reporting and paperwork requirements: The council would be required to send to the administrator of KLEFPF a copy of all training curriculums it approves for pay incentive purposes.

(2) Effects on the promulgating administrative body: The council would be required to more fully inform the KLEFPF administrator of the actions which directly affects the administration of the fund.

(a) Direct and indirect costs or savings: Would reduce the costs of administration of KLEFPF by reducing correspondence and/or telephone calls to council to ascertain council's actions on submitted curriculums.

1. First year: Estimated costs savings include secretarial time, paper, postage, staff time and telephone charges equal $500 annually.

2. Continuing costs or savings: Estimated costs savings include secretarial time, paper, postage, staff time and telephone charges equal $500 annually.

3. Additional factors increasing or decreasing costs: Estimated costs savings include secretarial time, paper, postage, staff time and telephone charges equal $500 annually.

(b) Reporting and paperwork requirements: Copying by machine of submitted and approved training curriculums.

(3) Assessment of anticipated effect on state and local revenues: Reduced operating costs of state agency, Department of Criminal Justice Training.

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

(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: Amendment intended to improve administration of KLEFPF.

TIERING: Was tiering applied? No. There is only one class of the regulated agencies.

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___ Only the four local governments who conduct certified law enforcement training schools.

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. Affects only the law enforcement training section of each local government providing such training.

3. State the aspect or service of local government to which this administrative regulation relates. Relates to that section of local government which conducts a certified law enforcement training school.

4. How does this administrative regulation affect the local government or any service it provides? Makes submission dates for new curriculums and renewals thereof consistent.

JUSTICE CABINET
Kentucky Law Enforcement Council
(Proposed Amendment)

503 KAR 1:110. Basic training: graduation requirements; records.

RELATES TO: KRS 15.330(1)(e), 15.440(4)
STATUTORY AUTHORITY: KRS 15A.160
NECESSITY AND FUNCTION: KRS 15.330(1)(e) authorizes the Kentucky Law Enforcement Council to approve law enforcement officers as having met the requirements for completion of law enforcement training. KRS 15.440(4) requires local units of government participating in the Law Enforcement Foundation Program Fund to require all police officers employed on or after July 1, 1972, to successfully complete at least 400 hours of basic training within one (1) year of the date of employment at a school certified or recognized by the council. This regulation prescribes requirements for graduation from a basic training course and for maintenance of basic training records.

Section 1. Basic Training Graduation Requirements. (1) A trainee in a basic training course shall participate in a minimum of 400 hours of training.

(2) A trainee may have excused absences from the course with approval of the director of the certified school or his designee. An excused absence from the course which causes a trainee to miss any of the 400 hours of basic training shall be made up through an additional training assignment.

(3) To successfully complete a basic training course, a trainee must:

(a) [(1)] Participate in a minimum of 400 hours of training.

(b) [(2)] Attain a passing overall grade. Fifty (50) percent of the overall grade shall be

the grade on the final examination; the other fifty (50) percent shall be the grade on all graded training areas covered during the course. A trainee may not take the final examination until he has passed all such graded training areas. A trainee who, after taking the final examination, does not have a passing overall grade must repeat the entire course.

(c) [(3)] Successfully complete all graded training areas covered during the course.

1. Only upon failure of an examination and a reexamination shall a trainee be considered to have failed a training area.

2. Only one (1) reexamination in each graded area shall be permitted and it must be completed in not less than twenty-four (24) hours nor more than [within] thirty (30) days of the failure. However, a trainee who fails a skills graded area examination may be permitted to be reexamined in that area sooner than twenty-four (24) hours upon execution of a written request and waiver. A trainee who has failed a graded training area must arrange with the school to repeat, and must successfully complete, that training area during a later basic training course.

3. A graded training area that is failed must be repeated and passed within 180 days of the initial failure. If the graded training area that is failed is [physical training, or] M.A.R.C. (the mechanics of arrest, restraint, and control), the repeating of the training in that area at facilities of the Department of Criminal Justice Training at Richmond, Kentucky, is optional with the trainee's agency head, but in any event the trainee must pass an examination on the failed area consisting of a test and if necessary a retest within 180 days of the initial failure.

4. In the event of extenuating circumstances beyond the control of the trainee such as injury, illness or personal tragedy which occurs during a basic training course which prevents a trainee from completing a basic training course, a trainee shall complete the unfinished and/or failed graded area within 180 days after return to duty provided the break in service does not exceed one (1) year. This right to repeat a failed graded training area or complete a basic training course which was caused by injury or illness shall not be applicable wherein the failure to pass or complete is caused by a preexisting physical injury, an existing or a preexisting physiological condition. This right to repeaat a failed graded area or complete a basic training course shall be limited to one (1) attempt per calendar year. [In the event of extenuating circumstances beyond the control such as injury, illness or personal tragedy which prevents completion of a repeated graded area within 180 days, the fund administrator or his designee may grant an extension of time but not to exceed 180 days from the termination of the extenuating circumstances.]

5. If a trainee fails to successfully pass a repeated graded training area he must repeat the entire basic training course.

(d) [(4)] Successfully complete all other assignments, exercises, and projects included in the course.

(e) [(5)] If a trainee's employment as a police officer is terminated (resignation or dismissal) while enrolled and prior to completion of a basic training course and later becomes reemployed as a police officer, or if a trainee because of extenuating circumstances beyond his control (illness, personal injury or personal tragedy) is unable to complete a basic training course, he shall complete the unfinished and/or failed graded areas within one (1) year after a return to duty or reemployment as an officer, provided, however, the break in employment or duty may not exceed one (1) year.

Section 2. Maintenance of Records. A certified school shall, at the conclusion of each basic training course, complete in triplicate the Department of Criminal Justice Training Form 68, "Application for Training Credit," a copy of which is made a part hereof by reference KLEC Form 29, "Application for Basic Training," for each trainee who has attended the course. The forms shall be sent to the council. After verification by the council, one (1) copy of the form shall be sent to the fund administrator, one (1) copy shall be sent to the head of the trainee's agency, and one (1) copy shall be retained by the council [for central training records purposes]. All training records required for fund purposes shall be retained by the certified school but [and] a copy of pertinent facts shall be sent to the fund administrator upon written request. All such records shall be available to the council, the secretary, and the fund administrator for inspection or other appropriate purposes. All records shall be maintained in accordance with standards established by the State Archives and Records Commission (see KRS 171.410 to 171.740).

W. MICHAEL TROOP, Secretary
APPROVED BY AGENCY: January 5, 1990
FILED WITH LRC: February 12, 1990 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on March 27, 1990 at 10 a.m. at Room 352 Stratton Building, Kit Carson Drive, Richmond, Kentucky 40475. Individuals interested in attending this hearing shall notify this agency in writing by March 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: A. Jack May, Director, Administrative Division, Department of Criminal Justice Training, Kit Carson Drive, Richmond, Kentucky 40475-3131. (606)622-1023.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: A. Jack May

(1) Type and number of entities affected: The amendments affect all agencies of government which require its law enforcement officers to participate in a basic law enforcement training course conducted by the Department of Criminal Justice Training. This presently consists of 180 cities, 12 counties, several sheriff departments, universities and airport security.

(a) Direct and indirect costs or savings to

those affected: None involved.
1. First year: Not applicable.
2. Continuing costs or savings: Not applicable.
3. Additional factors increasing or decreasing costs (note any effects upon competition): Not applicable.
(b) Reporting and paperwork requirements: The Department of Criminal Justice Training requires requests for extensions of time for training to submit requests with justification in writing.
(2) Effects on the promulgating administrative body: Removes discretion in the Department of Criminal Justice Training and unifies and makes clear to all agencies enrolling officers in a basic law enforcement training course retesting procedure and extension procedures necessitated by extenuating circumstances.
(a) Direct and indirect costs or savings: None involved.
1. First year: Not applicable.
2. Continuing costs or savings: Not applicable.
3. Additional factors increasing or decreasing costs: Not applicable.
(b) Reporting and paperwork requirements: The Department of Criminal Justice Training requires requests for extensions or time for training to submit requests with justification in writing.
(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: Alternative methods not as equitable and thus rejected. The procedures set forth in this amendment are based on experiences encountered in administering a training program and the method determined best to deal with them.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: Not applicable.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.
(6) Any additional information or comments: The amendment is intended to provide procedure to ensure that statutorily required training is completed in a timely manner taking into account equitable extensions based upon extenuating circumstances. The amendment clarifies the procedures for maintenance of training records. Finally as physical agility is no longer a graded area of a basic training course reference as to retraining in that area is deleted.
TIERING: Was tiering applied? No. Statutes and Kentucky Law Enforcement Council require that no distinction be made between trainees in a course. Too, there are no different classes in the affected agencies.

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. Will affect only a part or division of the local government.
3. State the aspect or service of local government to which this administrative regulation relates. Affects those law enforcement officers of local governments who attend a law enforcement basic training course conducted by the Department of Criminal Justice Training.
4. How does this administrative regulation affect the local government or any service it provides? It will affect the law enforcement officers who attend a basic law enforcement course by providing when a retest may be taken as well as how soon an officer must complete a training course which has been interrupted due to extenuating circumstances.

JUSTICE CABINET
Kentucky Law Enforcement Council
(Proposed Amendment)

503 KAR 1:120. In-service training: graduation requirements; recognized courses; records.

RELATES TO: KRS 15.330(1)(e), 15.440(5)
STATUTORY AUTHORITY: KRS 15A.160
NECESSITY AND FUNCTION: KRS 15.330(1)(e) authorizes the Kentucky Law Enforcement Council to approve law enforcement officers as having met the requirements for completion of law enforcement training. KRS 15.440(5) requires local units of government participating in the Law Enforcement Foundation Program Fund to require all police officers to successfully complete at least forty (40) hours of in-service training each calendar year at a school certified or recognized by the Council. This regulation prescribes requirements for graduation from an in-service training course and for maintenance of in-service training records and establishes procedures for recognizing training at noncertified schools.

Section 1. In-Service Training Graduation Requirements. A trainee in an in-service training course shall participate in the minimum hours prescribed for the course. A trainee may have excused absences from the course with approval of the director of the certified school or his designee. An excused absence which causes a trainee to miss any of the required hours of in-service training shall be made up through an additional training assignment. A trainee shall be allowed excused absences from no more than twenty (20) percent of the hours of an in-service course. To successfully complete an in-service training course, a trainee must:
(1) Participate in at least the minimum hours prescribed for the training course.
(2) Pass the final examination or a reexamination.
(3) Successfully complete all graded training areas and all other assignments, exercises, and projects included in the course. If a trainee fails to attain a minimum score of seventy (70) on a final examination in an in-service course, he/she may request a second examination. The request for the second examination must be made within seven (7) calendar days from the date a notice of failure was mailed to the trainee. The second examination must contain a completely different set of questions from the first examination and it must be administered within twenty-one (21) days from the date of the request. The time and location of the second examination shall be at the discretion of the supervisor of the in-service program. A failure of a trainee to meet the minimum reexamination

requirements shall constitute a course failure.
(4) Comply with all rules and regulations of the certified school, the fund, and the council.

Section 2. In-Service Training Courses at Recognized Schools. The council shall have the authority to recognize schools providing in-service training which are not certified by the council. A trainee who desires to attend an in-service training course at a school that is not certified shall make a written request to the council at least thirty (30) days prior to the first day of the course. The council shall have the authority to grant a request made after the course has been attended, but failure to submit the request at least thirty (30) days in advance of the course shall be justification for not recognizing the course. The council shall review the request and determine whether the school and the course shall be recognized based upon the following:
(1) The quality and reputation of the training school or institution;
(2) The relationship of the course to the officer's rank and responsibility; and
(3) The unavailability of the course at a certified school. If, upon review of the request, the council determines that the trainee may attend an in-service training course at a school or institution that is not certified, the council shall notify the trainee's agency, [the department,] and the fund administrator of its action. A trainee who fails to meet requirements established by the council for attendance at the recognized course (which shall not be less than those prescribed herein for certified schools) shall not have met the requirements of KRS 15.440(5).

Section 3. Maintenance of Records. Each trainee who has successfully completed an in-service course conducted by a school recognized or certified by the council (other than the Department of Criminal Justice Training) shall at the conclusion of such course have the school complete DOCJT Form 68, "Application for Training Credit," a copy of which is made a part hereof by reference. [A certified school shall, at the conclusion of each in-service training course, complete in triplicate the KLEC Form 28, "Application for In-Service Training," for each trainee who has attended the course.] The forms shall be sent to the council. After verification by the council, one (1) copy of the form shall be sent to the fund administrator, one (1) copy shall be sent to the head of the trainee's agency, and one (1) copy shall be retained by the council [for central training records purposes]. All training records required for fund purposes shall be retained by the certified school and a copy shall be sent to the fund administrator. All such records shall be available to the council, the secretary, and the fund administrator for inspection or other appropriate purposes. All records shall be maintained in accordance with standards established by the State Archives and Records Commission (see KRS 171.410 to 171.740).

W. MICHAEL TROOP, Secretary
APPROVED BY AGENCY: February 5, 1990
FILED WITH LRC: February 12, 1990 at 3 p.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on March 27, 1990 at 10 a.m. at Room 352 Stratton Building, Kit Carson Drive, Richmond, Kentucky 40475. Individuals interested in attending this hearing shall notify this agency in writing by March 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: A. Jack May, Director, Administrative Division, Department of Criminal Justice Training, Kit Carson Drive, Richmond, Kentucky 40475-3131. (606)622-1023.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: A. Jack May
(1) Type and number of entities affected: Affects units of government, local and state, requiring its law enforcement officers to participate in law enforcement training courses now consisting in 180 cities, 12 counties, sheriff departments, universities, airport security departments and others.
(a) Direct and indirect costs or savings to those affected: No costs or savings are involved to those affected.
1. First year: Not applicable.
2. Continuing costs or savings: Not applicable.
3. Additional factors increasing or decreasing costs (note any effects upon competition): Not applicable.
(b) Reporting and paperwork requirements: Records and paperwork involved in giving a retest.
(2) Effects on the promulgating administrative body: Sets specific time limits for giving reexaminations to trainees who fail an in-service course.
(a) Direct and indirect costs or savings: No new costs or savings are involved.
1. First year: Not applicable.
2. Continuing costs or savings: Not applicable.
3. Additional factors increasing or decreasing costs: Not applicable.
(b) Reporting and paperwork requirements: No new reporting nor paperwork will be required.
(3) Assessment of anticipated effect on state and local revenues: None, as this involves only time requirements for reexaminations.
(4) Assessment of alternative methods; reasons why alternatives were rejected: Alternative methods (different time schedules) were rejected as previous practice has proven these time limits most equitable and manageable.
(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: This amends existing regulation so as to provide, by regulation rather than by internal policy, for uniform scheduling of reexamination.

TIERING: Was tiering applied? No. There are not any different classes in entities affected. All those taking reexaminations must be treated the same.

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. Will affect only a part or division of the local government.
3. State the aspect or service of local government to which this administrative regulation relates. Will affect those law enforcement officers of local governments who have failed the first examination in an in-service law enforcement training course.
4. How does this administrative regulation affect the local government or any service it provides? The amendment dictates how, when and where a local law enforcement officer who has failed an examination in an in-service law enforcement course may apply for and take a reeamination.

JUSTICE CABINET
Law Enforcement Foundation Program Fund
(Proposed Amendment)

503 KAR 5:090. Participation: requirements; application; withdrawal.

RELATES TO: KRS 15.440
STATUTORY AUTHORITY: KRS 15.450(1)
NECESSITY AND FUNCTION: KRS 15.440 prescribes requirements to be met by a local unit of government in order to be eligible to receive salary supplement funds from the Law Enforcement Foundation Program Fund. This regulation expands on the statutory requirements for eligibility and establishes the procedure to be followed by a local unit in applying for admission to, or withdrawing from, the fund.

Section 1. (1) Education Requirements. [Requirements for Participation in the Fund. Eligibility to participate in the fund is limited to local units of government meeting the following requirements:]

[(1) Number of police officers employed. KRS 15.440(1) requires the local unit to employ one (1) or more police officers.]

[(2) Minimum salary of police officers. KRS 15.440(2) requires the local unit to pay every police officer a minimum annual salary of $4,350.]

[(3) Minimum education requirement.]

[(a) KRS 15.440(3) requires the local unit to require, as a minimum educational standard for the employment of police officers, a high school degree, or its equivalent as determined by the council. However, a police officer employed prior to July 1, 1972, does not have to meet this requirement - he is "grandfathered" into the fund.]

(a) [(b)] A copy of the high school diploma or of its equivalent (e.g., a general education diploma) shall be sent to the fund administrator, by the local unit, or the officer shall be deemed ineligible to receive a salary supplement.

(b) [(c)] If a police officer who is "grandfathered" into the fund without having to meet the educational requirement of KRS 15.440(3) has his police service terminated (due to resignation, dismissal, etc.); he must meet the educational requirement in order to become eligible to reparticipate in the salary supplement program upon reemployment [be reemployed] as a police officer by a local unit which is participating in the fund.

(2) [(4)] Basic training requirement.

[(a) KRS 15.440(4) requires the local unit to require all police officers employed on or after July 1, 1972, to successfully complete a basic training course of at least 400 hours duration, within one (1) year of the date of employment, at a school certified or recognized by the council.]

(a) [(b)] A local unit that elects to participate in the fund shall require all police officers employed as of the date of the initial participation to meet the basic training requirement (or obtain credit for meeting it) within one (1) year of the date of initial participation. All officers employed thereafter shall meet the basic training requirement (or obtain credit for meeting it) within one (1) year of the date of employment. The local unit shall not be considered to be in violation of this paragraph if an officer's failure to meet the basic training requirement (or obtain credit for meeting it) within one (1) year is due to circumstances beyond his control, such as injury, illness, or personal tragedy; in this situation, the officer shall be required to meet the basic training requirement (or obtain credit for meeting it) within a reasonable time (not to exceed one (1) year from the termination of the extenuating circumstances), as determined by the fund administrator or his designee, or the local unit shall be in violation of this paragraph.

[(c) A police officer who is employed before July 1, 1972, does not have to meet the basic training requirement (or obtain credit for meeting it) - he is "grandfathered" into the fund under KRS 15.440(4).]

(b) [(d)] Obtaining credit for basic training; valuation examination. A police officer who, as of his date of employment, has already successfully completed a law enforcement basic training course may, for the purpose of obtaining credit for some or all of the basic training requirement, apply to the fund administrator to take a basic training evaluation examination. [(Forms and information are available from the Kentucky Law Enforcement Foundation Program Fund, 107 Stratton Building, Eastern Kentucky University, Richmond, Kentucky 40475.)] Upon receipt of an evaluation examination request, the fund administrator or his designee shall verify that the officer has successfully completed a basic training course. The officer and his local unit shall be responsible for providing such proof as is needed for verification. Upon verification, the fund administrator or his designee shall notify the officer that he is eligible to take a basic training evaluation examination. The fund administrator or his designee shall administer and evaluate the examination. The examination shall test the officer in the areas required for successful completion of a council-approved basic training course. The fund administrator or

his designee shall then decide what training, if any, the officer must successfully complete in order to meet the basic training requirement. An officer who passes less than fifty (50) percent of the examination areas shall obtain no basic training credit at all and shall be required to take and successfully complete a basic training course. An officer who passes at least fifty (50) percent of the examination areas shall obtain basic training credit for the areas which he passes. If the officer fails a graded area the officer shall take and successfully complete that portion of a basic training course that corresponds to the failed area. If the graded training area that is failed is [physical training and/or] M.A.R.C. (the mechanics of arrest, restraint, and control) the repeating of the training in that area at the training facilities of the training agency is optional with the officer's agency head, but in any event the officer must pass an examination on that failed area consisting of a test and retest within one (1) year of employment. The fund administrator or his designee shall notify the officer of his decision. If an officer is given credit for all or a part of a previously attended basic training course of less than 400 hours, the officer shall be required to make up the difference in hours by completing subject areas of a current basic training course, as determined by the fund administrator or his designee, that equal the hours deficient. The officer shall be responsible for arranging any required basic training at a council-approved school.

(c) [(e)] If a police officer who is qualified to participate in the fund has his police service terminated [(]due to resignation or [,] dismissal, [etc.),] and he remains separated from employment as a police officer for more than twenty-four (24) continuous months [two (2) years]; he must, if reemployed as a police officer, meet the basic training requirement (or obtain credit for meeting it) before he shall be eligible to participate in the fund [again]. This rule shall also be applicable to officers who are members of an agency which participates in the fund but which agency withdraws from or becomes ineligible to participate in the fund and later applies for reparticipation in the fund if the period of nonparticipation exceeds twenty-four (24) consecutive months [two (2) years]. If an officer of an agency which withdraws from the fund maintains his/her in-service training on a current basis that officer shall be immediately eligible to reparticipate in the fund if his/her agency elects to reparticipate in the fund or if said officer transfers to and becomes employed by another agency that is a participant in the fund.

(3) [(5)] In-service training requirement.

[(a) KRS 15.440(5) requires the local unit to require all police officers, whether originally employed before or after July 1, 1972, to successfully complete each calendar year an in-service training course, appropriate to the officer's rank and responsibility and the size and location of his department, of at least forty (40) hours duration at a school certified or recognized by the council.]

(a) [(b)] A local unit that elects to participate in the fund shall require all police officers employed as of the date of initial participation, and all officers employed thereafter, to successfully complete the in-service training requirement each calendar year. The local unit shall not be considered to be in violation of this paragraph if an officer's failure to meet the in-service training requirement in a calendar year is due to circumstances beyond his control, such as injury, illness, or personal tragedy; in this situation, the officer shall be required to meet the in-service training requirement within a reasonable time (not to exceed one (1) year from the termination of the extenuating circumstances), as determined by the fund administrator or his designee, or the local unit shall be in violation of this paragraph. If an officer, under circumstances that are not extenuating, fails to successfully complete forty (40) hours of in-service training in a calendar year; the fund administrator or his designee shall notify the local unit that the officer must make up the in-service training for the year of delinquency within a reasonable time, as determined by the fund administrator or his designee, or else the local unit, if it continues to employ the officer full time, shall be in violation of this paragraph and shall lose its eligibility to participate in the fund. If an officer, under circumstances that are not extenuating, fails to successfully complete forty (40) hours of in-service training in a calendar year, he shall receive no salary supplement until he makes up the in-service training for the year of delinquency and shall not be entitled to receive back pay supplement for the period of nonpayment caused by the delinquency in training.

[(c) The local unit shall provide at least five (5) days leave with pay, not chargeable against the officer's annual leave allotment, for each police officer attending in-service training.]

(b) [(d)] A police officer who meets the basic training requirement (or obtains credit for meeting it) shall be considered to have fulfilled the in-service training requirement for the calendar year in which the basic training is successfully completed (or the credit is obtained). However, an officer who passes an entire basic evaluation examination and therefore receives full credit for a prior basic training course that officer shall be required to complete a forty (40) hour in-service training course for that year in order to remain eligible to participate in the fund.

(c) [(e)] If a police officer who is qualified to participate in the fund has his police service terminated (due to resignation, dismissal, etc.) before he meets his in-service training requirement for the calendar year, he shall still be eligible to participate in the fund for that part of the calendar year during which he was employed as a police officer.

(d) [(f)] If a police officer who is qualified to participate in the fund or if a law enforcement officer would be qualified to participate in the fund were his agency eligible to participate in the fund, i.e., has met and maintained all training requirements has his police service terminated [(]due to resignation or [,] dismissal[, etc.),] but is reemployed as a police officer by an agency which is participating in the fund, he shall retain [regain] eligibility to participate in the fund unless [as soon as he meets the in-service training requirement for the year in which

reemployed. If] the reemploying is not within twenty-four (24) months, in which event [two (2) years,] he must meet the basic training requirement (or obtain credit for meeting it); see paragraph (c) [subsection (4)(e)] of this subsection. This rule shall also be applicable to officers who are members of an agency which participates in the fund but which agency withdraws from or becomes ineligible to participate in the fund and later applies for reparticipation in the fund. If the officer has maintained a current status in in-service training such officer shall retain eligibility to participate in the fund upon his employing agency regaining eligibility to participate or upon employment by a participating agency. [if the period of nonparticipation exceeds two (2) years.]

(e) [(g)] A police officer may not, for fund eligibility purposes, take the same in-service training course that he has successfully completed in a previous year for fund eligibility purposes unless at least three (3) years have passed since the earlier course was completed.

[(6) Compliance with the law.]

[(a) KRS 15.440(6) requires the local unit to comply with all provisions of the law applicable to local police, including transmission of criminal information and statistics to the state as required by KRS 17.150.]

[(b) KRS 15.440(7) requires the local unit to comply with all reasonable rules and regulations, appropriate to the size and location of the local police department, issued by the cabinet to facilitate the administration of the fund.]

[(c) KRS 15.440(8) provides that a local unit's eligibility to participate in the fund shall continue only if the local police department actually begins and continues to comply with the requirements of KRS 15.440.]

(4) [(7)] Local ordinance requirement. To be eligible to participate in the fund, a local unit shall enact an ordinance or resolution requiring the local unit and police department to comply with KRS 15.410 to 15.510 and with these regulations. A certified copy of this local ordinance or resolution shall be submitted by the local unit to the fund administrator along with the application for participation in the fund.

Section 2. Application. A local unit desiring to apply for admission to the fund shall submit an application form to the fund administrator. [(This form is available from the Kentucky Law Enforcement Foundation Program Fund, 107 Stratton Building, Eastern Kentucky University, Richmond, Kentucky 40475.)]

Section 3. Withdrawal. To withdraw from the fund, a local unit shall send a written notice of withdrawal to the Fund administrator. The fund administrator or his designee shall acknowledge in writing the receipt of the withdrawal notice; the withdrawal shall be effective as of the date the withdrawal notice is received by the fund administrator. Upon withdrawal, a local unit shall be obligated to return all salary supplement funds received from the fund for which its police officers have not yet become qualified.

Section 4. Audits. Participating agencies are subject to periodic audits of police attendance, payroll and KLEFPF records to determine compliance with all rules and regulations governing participation. Audits do not have to be annual or scheduled.

W. MICHAEL TROOP, Secretary
APPROVED BY AGENCY: February 5, 1990
FILED WITH LRC: February 12, 1990 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on March 27, 1990 at 10 a.m. at Room 352 Stratton Building, Kit Carson Drive, Richmond, Kentucky 40475. Individuals interested in attending this hearing shall notify this agency in writing by March 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: A. Jack May, Director, Administrative Division, Department of Criminal Justice Training, Kit Carson Drive, Richmond, Kentucky 40475-3131. (606)622-1023.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: A. Jack May

(1) Type and number of entities affected: Affects 189 cities currently participating in the Kentucky Law Enforcement Foundation Program Fund. The total number of cities with police departments employing full-time officers is unknown but the best data available indicates that approximately 96% of eligible officers do participate.

(a) Direct and indirect costs or savings to those affected: This regulation does not involve any costs or savings, direct or indirect, to those affected. It sets training standards which must be met by a law enforcement officer to become eligible to receive a training pay supplement.

1. First year: Not applicable.

2. Continuing costs or savings: Not applicable.

3. Additional factors increasing or decreasing costs (note any effects upon competition): Not applicable.

(b) Reporting and paperwork requirements: Consists of written notice (Personnel Action Form) of employment, etc. of new officers and completion of form applications for training.

(2) Effects on the promulgating administrative body: Clarifies training requirements for officers who terminates employment as a law enforcement officer but later is reemployed, transfer rights, obtaining credit for out-of-state training and officers with training employed by agencies which apply to participate in KLEFPF. Amendments address issues encountered by promulgating body not previously addressed by the existing regulation.

(a) Direct and indirect costs or savings: Costs or savings issues are not involved.

1. First year: Not applicable.

2. Continuing costs or savings: Not applicable.
3. Additional factors increasing or decreasing costs: Not applicable.

(b) Reporting and paperwork requirements: Utilizing personnel actions forms submitted by agencies participating in KLEFPF containing personnel data and computerized training data the administrator of KLEFPF is able to make training needs decisions for compliance with KLEFPF participation requirements.

(3) Assessment of anticipated effect on state and local revenues: No major effect on state and local revenues. Such revenues may be affected as a result of decision as to what training if any is required for an officer to participate in the training pay supplement program. These amendments address issues not now covered or clarifies same.

(4) Assessment of alternative methods; reasons why alternatives were rejected: All possible alternatives were considered but methods chosen have been deemed from experience to be the most practical and equitable.

(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: In addition to clarification of existing provisions and creation of rights and issues not presently addressed in the existing regulation the amendment deletes all provisions and sections already set forth in the statutes, i.e., duplications are deleted.

TIERING: Was tiering applied? No. There are no multiple classes nor categories in the affected agencies. All applicants to the Kentucky Law Enforcement Foundation Program Fund and the officers thereof must meet the same requirements.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Instruction
(Proposed Amendment)

704 KAR 10:050. Courses not in program of studies; procedure for offering.

RELATES TO: KRS 156.160
STATUTORY AUTHORITY: KRS [156.135,] 156.070, 156.160
NECESSITY AND FUNCTION: KRS 156.160 mandates that the State Board for Elementary and Secondary Education determine the scope of instruction in the common schools. This regulation establishes procedures for seeking State Board of Education approval for courses that are not listed in the "Program of Studies for Kentucky Schools, K-12."

Section 1. Any school desiring to offer a course not listed in the "Program of Studies for Kentucky Schools, K-12", as adopted in 704 KAR 3:304, shall secure the approval of the State Board of Education upon recommendation of the Superintendent of Public Instruction before such a course is offered. [Annual approval of the offering of the course shall be secured not later than July 1.] Failure to secure state board approval before the course is initiated shall result in the course not being recognized for graduation credit. No course shall be considered for approval that is inconsistent with Kentucky Administrative Regulations, Kentucky Revised Statutes, or the Constitution of the Commonwealth of Kentucky. Any school implementing an experimental program or enrichment course hereunder shall notify the State Department of Education when the program or course is terminated.

Section 2. The procedure for seeking approval of an experimental program or enrichment course shall be as follows: The Superintendent of a county or independent school district or the administrative head of an accredited [a] nonpublic school seeking permission to offer an unlisted course shall notify the head of the Bureau of Instruction in writing no later than May 31 when requesting approval for a program beginning the first semester and September 30 when requesting approval for a program beginning the second semester. The application shall contain the following information [of such intent and shall subsequently submit information concerning the course as follows]:

(1) The name or title of the program or course;
(2) A statement indicating need for the course;
(3) A statement of the objectives of the course;
(4) A brief description of the scope and content of the course;
(5) A statement describing adequacy of staff, facilities, equipment, and materials for implementing the course;
(6) A description of deviation from the "Program of Studies for Kentucky Schools, K-12;"
(7) The amount of credit to be allowed for the course or the extent of grade levels involved in the proposed offering;
(8) Proposed method of evaluation;
(9) Anticipated length of experiment;
(10) A written evaluation shall be submitted to the head of the Bureau of Instruction at the close of the school year.

Section 3. The Superintendent of Public Instruction shall submit the request to the State Board of Education, accompanied by his recommendation. Following action of the State Board of Education, local school districts or accredited nonpublic schools shall [will] be notified in writing within ten (10) days of the board decision.

HENRY E. POGUE, IV, Chairman
APPROVED BY AGENCY: January 11, 1990
FILED WITH LRC: February 7, 1990 at 11 a.m.
PUBLIC HEARING: A public hearing has been scheduled on Wednesday, March 28, 1990 at 10 a.m. (EST) in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky, to review the regulations adopted by the State Board for Elementary and Secondary Education at its January meeting. Those persons wishing to provide written testimony or attend and testify shall contact in writing: Dr. Dan H. Branham, Secretary, State Board for Elementary and Secondary Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before March 23, 1990. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Stephen A. Henderson
(1) Type and number of entities affected: 177 school districts.
(a) Direct and indirect costs or savings to those affected:
1. First year: No change.
2. Continuing costs or savings: No change
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements:
(2) Effects on the promulgating administrative body: Paperwork requirements will remain the same.
(a) Direct and indirect costs or savings:
1. First year: No change.
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: Paperwork requirements will remain the same.
(3) Assessment of anticipated effect on state and local revenues: No effect.
(4) Assessment of alternative methods; reasons why alternatives were rejected: Amendments are needed for better implementation of the statute.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are 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. Allows for tiering of normal program of studies requirements.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Education for Exceptional Children
(Proposed Amendment)

707 KAR 1:090. Kentucky School for the Deaf; code of conduct.

RELATES TO: KRS 167.150, 167.170
STATUTORY AUTHORITY: KRS 156.070, 167.150
NECESSITY AND FUNCTION: KRS 167.150 authorizes the State Board for Elementary and Secondary [of] Education, upon recommendation of the Superintendent of Public Instruction, to prescribe curriculum and rules for the government and discipline of pupils who attend the [Kentucky School for the Blind or the] Kentucky School for the Deaf; and KRS 167.170 gives the State Board the power of expulsion from that [those two (2)] school[s]. This regulation implements such authority by prescribing the "Kentucky School for the Deaf Student [Handbook/]Code of Conduct."

Section 1. The "Kentucky School for the Deaf Student [Handbook/]Code of Conduct" November, 1989, is hereby adopted and incorporated herein by reference. Copies of this handbook may be inspected, copied, and obtained from the Superintendent, Kentucky School for the Deaf, Danville, Kentucky 40422, 8 a.m. - 4:30 p.m., Monday - Friday.

HENRY E. POGUE, IV, Chairman
APPROVED BY AGENCY: January 11, 1990
FILED WITH LRC: February 7, 1990 at 11 a.m.
PUBLIC HEARING: A public hearing has been scheduled on Wednesday, March 28, 1990 at 10 a.m. (EST) in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky, to review the regulations adopted by the State Board for Elementary and Secondary Education at its January meeting. Those persons wishing to provide written testimony or attend and testify shall contact in writing: Dr. Dan H. Branham, Secretary, State Board for Elementary and Secondary Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before March 23, 1990. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: John W. Hudson, Jr.
(1) Type and number of entities affected: Students (350), their parents, KSD staff (250).
(a) Direct and indirect costs or savings to those affected: N/A
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: Minimal/annual review.
(2) Effects on the promulgating administrative body: N/A
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: N/A
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None known.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. Tiering could not be applied as Code of Conduct must apply equally to all students at the school.

LABOR CABINET
Department of Workplace Standards
Kentucky Occupational Safety & Health
(Proposed Amendment)

803 KAR 2:320. Adoption of 29 CFR Part 1910.1000-.1500.

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 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 February 15, 1990, with the following additions, exceptions, and deletions:

(1) 29 CFR 1910.1000, "Air Contaminants," Table Z-1 is amended as published in the Federal Register, Volume 50, Number 240, December 13, 1985, is incorporated by reference.

(a) 29 CFR 1910.1000, "Air Contaminants," Tables Z-1-A, Z-2 and Z-3 as published in Federal Register, Volume 54, Volume Number 12, January 19, 1989 are incorporated by reference.

(b) 4,4'-"Methylene bis (2-chloraniline)," found in Table Z-1-A of 29 CFR 1910.1000, as published in the Federal Register, Volume 54, Number 12, January 19, 1989, is hereby revoked.

(c) Revisions to 29 CFR 1910.1000, "Air Contaminants," Table Z-1-A, as published in the Federal Register, Volume 54, Number 127, July 5, 1989, is incorporated by reference.

(d) Revisions to 29 CFR 1910.1000, "Air Contaminants," Table Z-1-A, as published in the Federal Register, Volume 54, Number 170, September 5, 1989, is incorporated by reference.

(2) 29 CFR 1910.1000, Table Z-2, "Benzene," shall be amended as follows: Amendments as published in the Federal Register, Volume 52, Number 176, September 11, 1987 are incorporated by reference.

(3) 29 CFR 1910.1000, Table Z-2, "Formaldehyde," as published in the Federal Register, Volume Number 52, December 4, 1987, is amended.

(4) 29 CFR 1910.1001, "Asbestos," is amended as follows:

(a) Amendments as published in the Federal Register, Volume 51, Number 119, June 20, 1986, are incorporated by reference.

(b) 29 CFR 1910.1001(d)(6)(ii) is amended to read: "The employer shall ensure that all sampling will be conducted in accordance with the ORM in Appendix A, before sampling commences."

(c) 29 CFR 1910.1001(d)(6)(iv) is amended to read: "The employer shall ensure that all analyses are performed in accordance with the elements outlined in Appendix A, and that all asbestos counters meet the criterion specified in Appendix A. This notice shall be given prior to the start of the analyses."

(d) 29 CFR 1910.1001(g)(3)(i) is amended to read: "Where respiratory protection is required, the employer shall institute a respirator program in accordance with American National Standards Practices for Respiratory Protection, ANSI Z88.2 - 1980, with the exception of Appendix A5, Suggested Procedures for Carrying Out Qualitative Respirator - Fitting Tests, and Appendix A6, Suggested Procedures for Carrying Out Quantitative Respirator - Fitting Tests."

(e) 29 CFR 1910.1001(j)(1)(ii) is amended to read: "Sign specifications. The warning signs required by paragraph (j)(1)(i) of the section shall be of a vertical format measuring twenty (20) inches in length and fourteen (14) inches in width, and shall be printed in letters of sufficient size and contrast as to be readily visible and legible, and shall bear the following information:"

(5) 29 CFR 1910.1001, "Occupational Exposure to Asbestos, Tremolite, Anthophylite, and Actinolite," as published in Federal Register, October 17, 1986, Volume 51, No. 201, is incorporated by reference.

(6) 29 CFR 1910.1001, "Occupational Exposure to Asbestos, Tremolite, Anthophylite, and Actinolite," as published in Federal Register, May 12, 1987, Volume 52, No. 91, is incorporated by reference. Amendments, revisions and additions to 29 CFR 1910.1001, "Occupational Exposure to Asbestos, Tremolite, Anthophyllite, and Actinolite," as published in Federal Register, Volume 53, Number 178, September 14, 1988, are incorporated by reference.

(7) 29 CFR 1910.1005 "4,4'-methylene bis (2-chloroaniline)" and 29 CFR 1910.1003 through .1016 paragraphs (c)(6), "Laboratory Activities," printed in the Federal Register, Volume 39, Number 125, June 27, 1974, are in effect.

(8) Paragraph 1910.1005(c)(7) of the 29 CFR 1910 General Industry Standards shall read as follows: "Premixed Solutions: Where 4,4'-methylene bis (2-chloroaniline) is present only in a single solution at a temperature not exceeding 120 degrees Celsius, the establishment of a regulated area is not required; however, (i) only authorized employees shall be permitted to handle such materials."

(9) 29 CFR 1910.1025, "Occupational Exposure to Lead" shall be amended as follows:

(a) "Table 1 - Implementation Schedule" is amended to read:

TABLE 1 - Implementation Schedule

INDUSTRY[1]	COMPLIANCE DATES 200 ug/m^3	100 ug/m^3	50 ug/m^3
Primary Lead Production	(2)	June 29, 1984	June 29, 1991
Secondary Lead Production	(2)	June 29, 1984	June 29, 1986
Lead Acid Battery Manufacture	(2)	June 29, 1983	June 29, 1986
Automobile/Manufacture/Solder Grinding	(2)	N/A	June 29, 1988
Electronics, Gray Iron Foundries, Ink Manufacture, Paints and Coatings Manufacture, Wall Paper Manufacture, Can Manufactures, and Printing	(2)	N/A	June 29, 1982
Lead Pigment Manufacture, Nonferrous Foundries, Leaded Steel Manufacture, Lead Chemical Manufacture, Ship Building	(2)	N/A	N/A

and Ship Repair, Battery Breaking in the Collection and Processing of Scrap (excluding collection and processing of scrap which is part of a secondary smelting operation), Secondary Smelting of Copper, and Lead Casting			
All Other Industries	(2)	N/A	June 11, 1984

[1] Includes ancillary activities located on the same worksite.
[2] On effective date. This continues an obligation from Table Z-2 of 29 CFR 1910.1000 which had been in effect since 1971 but which was deleted upon effectiveness of this section.

(b) Revision to 1910.1025, as published in the Federal Register, Volume 54, Number 131, July 11, 1989 is incorporated by reference.

(10) 29 CFR 1910.1028, "Benzene," as published in the Federal Register, Volume 52, Number 176, September 11, 1987 is incorporated by reference.

(11) 29 CFR 1910.1029, "Coke Oven Emissions," shall be amended as follows: Revision as published in the Federal Register, Volume 50, Number 178, September 13, 1985 are incorporated by reference.

(12) Corrections to 29 CFR 1910.1043, "Cotton Dust," as published in the Federal Register, Volume 51, Number 128, July 3, 1986, are incorporated by reference.

(13) Amendments and corrections to 29 CFR 1910.1047, "Ethylene Oxide and Appendices A, B, C and D," as published in the Federal Register, Volume 51, Number 132, July 10, 1986 are incorporated by reference.

(a) The amendments to 29 CFR 1910.1047, "Occupational Exposure to Ethylene Oxide," as published in the Federal Register, Volume 53, Number 66, April 6, 1988, are incorporated by reference.

(b) Revisions to 29 CFR 1910.1047, "Occupational Exposure to Ethylene Oxide," as published in Federal Register, Volume 53, Number 143, July 26, 1988, are incorporated by reference.

(14) 29 CFR 1910.1048, "Formaldehyde," as published in the Federal Register, Volume Number 52, December 4, 1987, is incorporated by reference. Amendments to 29 CFR 1910.1048, "Occupational Exposure to Formaldehyde," as published in Federal Register, Volume 53, Number 170, September 1, 1988, are incorporated by reference.

(15) 29 CFR 1910.1200, "Hazard Communication," shall be amended as follows: Amendments as published in the Federal Register, Volume 52, Number 163, August 24, 1987 are incorporated by reference.

(16) Revision of 29 CFR 1910.1200(i)(3), "Hazard Communication," and an amendment removing the last paragraph in 1910.1200 Appendix D, as published in the Federal Register, Volume 51, Number 189, September 30, 1986, are 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: February 13, 1990
FILED WITH LRC: February 15, 1990 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on March 27, 1990 at 10 a.m. at the Kentucky Labor Cabinet, 1049 U.S. 127 Building South, Bay 3 Conference Room, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by March 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. Guy Schoolfield, Kentucky Labor Cabinet, 1049 U.S. 127 Building South, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Kembra Taylor or Guy Schoolfield

(1) Type and number of entities affected: Section 1(1)(b) affects all employers in the Commonwealth with operations concerning limits for air contaminants (acetone, calcium hydroxide and calcium oxide). Section 1(1)(c) affects all employers in the Commonwealth with operations concerning boron oxide, ferbam, magnesium oxide fume, malathion, molybdenum, titanium dioxide, anisidine (o-,p-isomers), dipropylene glycol methyl ether, 2-ethoxyethyl acetate, methyl cellosolve, chromium II compounds, chromium III compounds, chrysene, coal tar pitch volatiles, cyanides, dinitrobenzene, dinitrotoluene, divinyl benzene, ethyl amyl ketone, gypson, N-nitrosodimethylamine, paraquat, plaster of paris, silica, subtilisins, tin oxide, petroleum distillates (naptha), lead, silver, butadiene, cadium fume, cadium dist, 2-ethoxyethanol, 2-ethoxyethyl acetate, methyl cellosolve, methyl cellosolve acetate, subtilisins, fluorides, tetra, iron oxide, nitroglycerin, ethylene glycol, cellulose acetate, and carbon monoxide.

Section 1(1)(d) affects all employers in the Commonwealth with operations concerning 4,4'-methylene-bis (2-chloroaniline) (MBCOA).

Section 1(9)(b) affects all employers in the Commonwealth with operations involving occupational exposure to lead.

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

1. First year: There will be no direct or indirect costs or savings for compliance with the amendments in Section 1(1)(b), (c), (9)(b), and the revocation in Section 1(1)(d).

2. Continuing costs or savings: There will be no direct or indirect costs or savings for compliance with the amendments in Section 1(1)(b), (c), (9)(b), and the revocation in Section 1(1)(d).

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors regarding these amendments in Section 1(1)(b), (c), (9)(b), and the revocation in Section 1(1)(d).

(b) Reporting and paperwork requirements: None of these amendments or revocation entail any reporting or paperwork requirements.

(2) Effects on the promulgating administrative body: These amendments and revocation 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 these amendments and revocation.

(3) Assessment of anticipated effect on state and local revenues: These amendments and revocation have no anticipated effect on state and local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were considered in Section 1(1)(b), (c), (9)(b) because the federal regulations contain specific methods for compliance.

Section 1(1)(d) reflects revocation because of a present Kentucky OSH standard being more effective than that which appears in Federal Register, Volume 54, Number 12, January 19, 1989.

(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.

(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)(b) amendment requires Kentucky employers to comply with federal standards governing employees' exposures to air contaminants (acetone, calcium hydroxide and calcium oxide). Section 1(1)(c) amendments require Kentucky employers exposed to air contaminants to comply with the existing federal OSHA standard (29 CFR 1910.1000). Section 1(1)(d) revocations reflects the retention of an existing Kentucky OSH standard that provides more safe and healthy working conditions than does the federal OSHA standard which is being revoked.

Section 1(9)(b) amendment requires Kentucky employers to comply with federal standards governing employees' exposures to lead.

3. Minimum or uniform standards contained in the federal mandate. Section 1(1)(b) amendment adopts all standards contained in the Federal Register, "Air Contaminants," Volume 54, Number 170, September 5, 1989.

Section 1(1)(c) amendments adopt all standards contained in the Federal Register, Volume 54, Number 127, July 5, 1989.

Section 1(1)(d) revokes all standards contained in the Federal Register, Volume 54, Number 12, January 19, 1989.

Section 1(9)(b) amendment adopts all standards contained in the Federal Register, Volume 54, Number 131, July 11, 1989.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The amendments in Section 1(1)(b), (c) and (9)(b) are identical to the changes contained in the federal standards cited in item 3 above. The revocation in Section 1(1)(d) addresses standards contained in the Federal Register, Volume 54, Number 12, January 19, 1989, which are less stringent than the Kentucky OSH standard being retained (29 CFR 1910.1005).

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Section 1(1)(b), (c) and (9)(b) imposes no stricter, additional or different responsibilities or requirements than the federal standards. For Section 1(1)(d), see item 4 for explanation.

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)(b) amendment affects all local government entities that have air contaminants (acetone, calcium hydroxide and calcium oxide). Sections 1(1)(c) and (d) affect all local government entities that have exposure to the aforementioned air contaminants (see regulatory impact analysis form). Section 1(9)(b) amendment affects all local government entities that have occupational exposure to lead.

3. State the aspect or service of local government to which this administrative regulation relates. The amendments in Sections 1(1)(b), (c), and (9)(b) and revocation in Section 1(1)(d) affect local government employees' exposure to occupational safety and health.

4. How does this administrative regulation affect the local government or any service it provides? The purpose of the amendments in Sections 1(1)(b), (c) and (9)(b) is to comply with federal OSHA regulations relating to "Air Contaminants" and "Occupational Exposure to Lead." The purpose of the revocation in Section 1(1)(d) is to retain an existing Kentucky OSH regulation that provides for better employee safety and health conditions than does the federal OSHA standard. There will be no increase or decrease in local government revenues or expenditures. These amendments and revocation will have no effect on the number of employees in local government.

PUBLIC PROTECTION & REGULATION CABINET
Public Service Commission
(Proposed Amendment)

807 KAR 5:022. Gas safety and service.

RELATES TO: KRS 278.485, 278.502
STATUTORY AUTHORITY: KRS 278.280(2)
NECESSITY AND FUNCTION: KRS 278.280(2) provides that the commission shall prescribe rules for the performance of any service or the furnishing of any commodity by any utility. This regulation establishes general rules which apply to gas utilities.

Section 1. General. (1) [(2)] Definitions. As used in this regulation:

(a) "British thermal unit (BTU)" means [the] quantity of heat that must be added to one (1) pound of pure water to raise its temperature from fifty-eight and one-half (58.5) degrees Fahrenheit to fifty-nine and one-half (59.5) degrees Fahrenheit at the absolute pressure of a column of pure mercury thirty (30) inches high at thirty-two (32) degrees Fahrenheit under standard gravity (32 [43].174 ft. per sec-sec).

(b) "Commission" means the Public Service Commission.

(c) "Cubic foot of gas" means the following:

1. If [In cases where] gas is supplied and metered to customers at [the] standard distribution pressure, a cubic foot of gas shall be defined as that [to be the] volume of gas which, at the temperature and pressure existing in the meter, occupies one (1) cubic foot.

2. If [In cases where] gas is supplied to customers through turbine, orifice or positive displacement meters at other than standard distribution pressure, a cubic foot of gas shall be defined as [to be] that volume of gas which, at sixty (60) degrees Fahrenheit and at absolute pressure of 14.73 pounds per square inch, (thirty (30) inches of mercury), occupies one (1) cubic foot; except that in cases where different bases that are considered by the commission to be fair and reasonable are provided for in gas sales contracts or in rules or practices of a utility, such different bases shall be effective.

3. The standard cubic foot of gas for testing the gas itself for heating value shall be that volume of gas which, when saturated with water vapor and at [a] temperature of sixty (60) degrees Fahrenheit, and under [a] pressure equivalent to that of thirty (30) inches of mercury (mercury at thirty-two (32) degrees Fahrenheit and under standard gravity) occupies one (1) cubic foot.

(d) "Customer piping" means all approved equipment and material required for natural gas service downstream from the property line except for the service tap including saddle (tapping tee) and first service valve and meter (service regulator where required).

(e) "Distribution line" means a pipeline other than a gathering or transmission line.

[(f) "Gas" means natural gas, flammable gas, or gas which is toxic or corrosive.]

(f) [(g)] "Gathering line" means a pipeline that transports gas from a current production facility to a transmission line or main.

(g) [(h)] "High pressure distribution system" means a distribution system in which [the] gas pressure in the main is higher than [the] pressure provided to the customer.

(h) [(i)] "Listed specification" means a specification listed in Section 1 of Appendix B of this regulation.

(i) [(j)] "Low-pressure distribution system" means a distribution system in which [the] gas pressure in the main is substantially the same as [the] pressure provided to the customer.

(j) [(k)] "Main" means a distribution line that serves as a common source of supply for more than one (1) service line.

(k) [(l)] "Maximum actual operating pressure" means the maximum pressure that occurs during normal operations over a period of one (1) year.

(l) [(m)] "Maximum allowable operating pressure (MAOP)" means the [that] maximum pressure at which a pipeline or segment of a pipeline may be operated under this regulation.

(m) [(n)] "Meter" means any device used to measure [for the purpose of measuring] the quantity of gas delivered by utility to a customer.

(n) [(o)] "Operator" means a utility as defined in KRS 278.010.

[(p) "Person" means any individual, firm, joint venture, partnership, corporation, association, state, municipality, cooperative association, or joint stock association, and including any trustee, receiver, assignee, or personal representative thereof.]

(o) [(q)] "Pipe" means any pipe or tubing used in [the] transportation of gas, including pipe-type holders.

(p) [(r)] "Pipeline" means all parts of those physical facilities through which gas moves in transportation, including pipe, valves, and other appurtenances attached to pipe, compressor units, metering stations, regulator stations, delivery stations, holders, and fabricated assemblies.

(q) [(s)] "Pipeline facility" means new and existing pipelines, rights-of-way, and any equipment, facility, or building used in the transportation of gas or in the treatment of gas during the course of transportation.

(r) "Pressure, absolute" means total gas pressure, which is the sum of barometric pressure plus line gas pressure (gauge), abbreviated as psia.

(s) "Pressure, gauge" means pounds per square inch above atmospheric pressure, abbreviated as psig.

(t) "Secretary" means the Secretary of the U.S. Department of Transportation or any person to whom he has delegated authority [in the matter concerned].

(u) "Service line" means a distribution line that transports gas from a common source of supply to:

[1.] customer meter or [the] connection to a customer's piping, whichever is farther downstream; or

[2. The] connection to a customer's piping if there is no customer meter. [A customer meter is the meter that measures the transfer of gas from an operator to a consumer.]

(v) "SMYS" means specified minimum yield strength and is defined as:

1. For steel pipe manufactured in accordance with a listed specification, the yield strength specified as a minimum in that specification; or

2. For steel pipe manufactured in accordance with an unknown or unlisted specification, the yield strength determined in accordance with Section 3(4)(b) of this regulation.

(w) "State" means [each of the several state,

the District of Columbia, and the] Commonwealth of Kentucky [Puerto Rico].

(x) "Therm" means the unit of heating value equivalent to 100,000 British thermal units.

(y) "Transmission line" means a pipeline, other than a gathering line that:

1. Transports gas from a gathering line or storage facility to a distribution center or storage facility;

2. Operates at a hoop stress of twenty (20) percent or more of SMYS; or

3. Transports gas within a storage field.

[(z) "Transportation of gas" means the gathering, transmission, or distribution of gas by pipeline or the storage of gas.]

(2) [(1)] Scope [of this Regulation]. This regulation prescribes minimum safety and service standards for natural gas utilities operating under the jurisdiction of the commission.

(a) Utilities serving customers under KRS 278.485 or other retail customers, under the jurisdiction of the [this] commission, directly from transmission or gathering lines are exempt from the following sections of this regulation insofar as they apply to these customers:

1. Section 9, subsections (2)(b) through (f), (16) and (17);

2. Section 13, subsections (14), (15), and (16);

3. Section 14, subsection (22);

4. Section 15; and

5. Section 16.

(b) Each utility shall make all reasonable efforts to prevent interruptions of service and if [when such] interruptions occur, shall endeavor to reestablish service with the shortest possible delay consistent with the safety of its consumers and the general public. Planned interruptions shall always be preceded by adequate notice to all affected customers.

(3) Class locations.

(a) [The] Class location is determined by applying [the] criteria set forth in this section: [. The] Class location unit is an area that extends 220 yards on either side of the centerline of any continuous one (1) mile length of pipeline. Except as provided in paragraphs (d)[2] and (f) of this section, [the] class location is determined by [the] buildings in the class location unit. For the purpose of this section, each separate dwelling unit in a multiple dwelling unit building is counted as a separate building intended for human occupancy.

(b) A Class 1 location is any class location unit that has ten (10) or less buildings intended for human occupancy.

(c) A Class 2 location is any class location unit that has more than ten (10) but less than forty-six (46) buildings intended for human occupancy.

(d) A Class 3 location is[:

1.] any class location unit that has forty-six (46) or more buildings intended for human occupancy; or

[2.] an area where the pipeline lies within 100 yards of either a [any of the following:

a. A] building or a [that is occupied by twenty (20) or more persons during normal use.

b. A] small, well-defined outside area [that is occupied by twenty (20) or more persons during normal use,] [such as playground, recreation area, outdoor theater, or other place of public assembly) that is occupied by twenty (20) or more persons on at least five (5) days a week for ten (10) weeks in any twelve (12) month period. (The days and weeks need not be consecutive.)

(e) A Class 4 location is any class location unit where buildings with four (4) or more stories above ground are prevalent.

(f) [The] Boundaries of [the] class locations determined in accordance with paragraphs (a) through (e) of this section may be adjusted as follows:

1. [A] Class 4 location ends 220 yards from the nearest building with four (4) or more stories above ground.

2. When a cluster of buildings intended for human occupancy requires a Class 3 location, [the] Class 3 location ends 220 yards from the nearest building in the cluster.

3. When a cluster of buildings intended for human occupancy requires a Class 2 location, [the] Class 2 location ends 220 yards from the nearest building in the cluster.

(4) Incorporation by reference.

(a) Any documents or parts thereof incorporated by reference in this section are a part of this regulation as though set out in full.

(b) All incorporated documents are available for inspection in the offices of the Public Service Commission, Frankfort, Kentucky. These materials have been approved for incorporation by reference by the Legislative Research Commission. These [In addition, the] documents are also available at the addresses provided in Appendix A to this regulation.

(c) [The] Full titles for [the] publications incorporated by reference in this section are provided in Appendix A to this regulation. Numbers in parenthesis indicate applicable editions.

(5) Gathering lines. Each gathering line must comply with [the] requirements of this regulation applicable to transmission lines except as exempted in Section 1(1)(a) of this regulation.

(6) Petroleum gas systems.

(a) No utility shall [may] transport petroleum gas in a system that serves ten (10) or more customers, or in a system, any portion of which is located in a public place (such as a highway), unless that system meets the requirements of this regulation and of NFPA Standards No. 58 and 59. In the event of a conflict, the requirements of this regulation prevail.

(b) Each petroleum gas system covered by paragraph (a) of this subsection shall [must] comply with the following:

1. Aboveground structures shall [must] have open vents near [the] floor level.

2. Below-ground structures shall [must] have forced ventilation that will prevent any accumulation of gas.

3. Relief valve discharge vents shall [must] be located [so as] to prevent any accumulation of gas at or below ground level.

4. Special precautions shall [must] be taken to provide adequate ventilation when excavations are made to repair an underground system.

(c) For the purpose of this subsection, petroleum gas means propane, butane, or mixtures of these gases, other than a gas mixture [that is] used to supplement supplies in a natural gas distribution system.

(7) General.

(a) No person may operate a pipeline segment [of pipeline that is] readied for service after

March 12, 1971, unless:

1. The pipeline has been designed, installed, constructed, initially inspected, and initially tested in accordance with this regulation; and

2. The pipeline qualifies for use under this regulation in accordance with Section 1(8) of this regulation.

(b) No person may operate a pipeline segment [of pipeline that is] replaced, relocated, or otherwise changed after November 12, 1970, unless that replacement, relocation, or change has been made in accordance with this regulation.

(c) Each utility shall establish and then maintain[, modify as appropriate, and follow the] plans, procedures and programs as [that it is] required [to establish] under this regulation.

(8) Conversion to service subject to this regulation.

[(a) A] Steel pipeline previously used in service not subject to this regulation qualifies for use under this regulation if the utility prepares and follows a written procedure to carry out the following requirements:

1. The design, construction, operation, and maintenance history of the pipeline shall [must] be reviewed and, where sufficient historical records are not available, appropriate tests shall [must] be performed to determine if the pipeline is in a satisfactory condition for safe operation.

2. The pipeline right-of-way, all aboveground segments of [the] pipeline, and appropriately selected underground segments must be visually inspected for physical defects and operating conditions which reasonably could be expected to impair the strength or tightness of the pipeline.

3. All known unsafe defects and conditions shall [must] be corrected in accordance with this regulation.

4. The pipeline must be tested in accordance with Section 11 of this regulation to substantiate [the] maximum allowable operating pressure permitted by Section 13 of this regulation.

5. Each utility must keep for the life of the pipeline a record of [the] investigations, tests, repairs, replacements, and alterations made under the requirements of paragraph (a) of this subsection.

[(9) Rules of regulatory construction.]

[(a) As used in this regulation:]

[1. "Includes" means including but not limited to.]

[2. "May" means "is permitted to" or "is authorized to."]

[3. "May not" means "is not permitted to" or "is not authorized to."]

[4. "Shall" is used in the mandatory and imperative sense.]

[(b) In this regulation:]

[1. Words importing the singular include the plural;]

[2. Words importing the plural include the singular; and]

[3. Words importing the masculine gender include the feminine.]

Section 2. Materials. (1) Scope. This section prescribes minimum requirements for [the] selection and qualification of pipe and components for use in pipelines.

(2) General. Materials for pipe and components shall [must] be:

(a) Able to maintain the structural integrity of the pipeline under temperature and other anticipated environmental conditions [that may be anticipated];

(b) Chemically compatible with any gas that they transport and with any other material in the pipeline with which they are in contact; and

(c) Qualified in accordance with [the] applicable requirements of this section.

(3) Steel pipe.

(a) New steel pipe is qualified for use under this regulation if:

1. It was manufactured in accordance with a listed specification;

2. It meets the requirements of:

a. Section II of Appendix B to this regulation; or

b. If it was manufactured before November 12, 1970, either Section II or III of Appendix B to this regulation; or

3. It is used in accordance with paragraph (c) or (d) of this subsection.

(b) Used steel pipe is qualified for use under this regulation if:

1. It was manufactured in accordance with a listed specification and it meets the requirements of Section II-C of Appendix B to this regulation;

2. It meets the requirements of:

a. Section II of Appendix B to this regulation;

b. If it was manufactured before November 12, 1970, either Section II or III of Appendix B to this regulation;

3. It has been used in an existing line of [the] same or higher pressure and meets the requirements of Section II-C of Appendix B to this regulation; or

4. It is used in accordance with paragraph (c) of this subsection.

(c) New or used pipe may be used at a pressure resulting in a hoop stress of less than 6,000 psi where no close coiling of close bending is to be done, if visual examination indicates that the [that] pipe is in good condition and [that it] is free of split seams and other defects that would cause leakage. If it is to be welded, steel pipe [that has] not [been] manufactured to a listed specification shall [must] also pass the weldability tests prescribed in Section II-B of Appendix B to this regulation.

(d) Unused steel pipe [that has not been previously used may be used as replacement pipe in a segment of pipeline if it has been] manufactured before [prior to] November 12, 1970, may be used as replacement pipe if it meets the same specifications as [in accordance with the same specifications as] the pipe used in constructing that segment of pipeline.

(e) New steel pipe that has been cold expanded shall [must] comply with the mandatory provisions of API Standard 5L[X].

(f) New or used pipe of unknown specifications and all used pipe, the strength of which is impaired by corrosion or other deterioration, shall be retested hydrostatically either length by length in a mill type test or in the field after installation before placed in service, and the test pressure used shall establish [the] maximum allowable operating pressure.

[(4) Cast iron or ductile iron pipe.]

[(a) New cast iron or new ductile iron pipe is qualified for use under this regulation if it has been manufactured in accordance with a listed specification.]

[(b) Used cast iron or used ductile pipe is qualified for use under this regulation if

inspection shows that the pipe is sound and allows the make up of tight joints and:]

[1. It has been removed from an existing pipeline that operated at the same or higher pressure; or]

[2. It was manufactured in accordance with a listed specification.]

(4) [(5)] Plastic pipe.

(a) New plastic pipe is qualified for use under this regulation if:

1. [When the pipe is manufactured,] It is manufactured in accordance with a [the latest] listed [edition of a listed] specification[, except that before March 21, 1975, it may be manufactured in accordance with any listed edition of a listed specification]; and

2. It is resistant to chemicals with which contact may be anticipated.

(b) Used plastic pipe is qualified for use under this regulation if:

1. [When the pipe is manufactured,] It is manufactured in accordance with a [the latest] listed [edition of a listed] specification[, except that pipe manufactured before March 21, 1985, need only have met the requirements of any listed edition of a listed specification];

2. It is resistant to chemicals with which contact may be anticipated;

3. It has been used only in natural gas service;

4. Its dimensions are still within the tolerance of the specification to which it was manufactured; and

5. It is free of visible defects.

(c) For the purpose of paragraphs (a)1 and (b)1 of this subsection, where pipe of a diameter included in a listed specification is impractical to use, pipe of a diameter between the sizes included in a listed specification may be used if it:

1. Meets [the] strength and design criteria required of pipe included in that listed specification; and

2. Is manufactured from plastic compounds which meet [the] criteria for material required of pipe included in that listed specification.

[(6) Copper pipe. Copper pipe is qualified for use under this regulation if it has been manufactured in accordance with a listed specification.]

(5) [(7)] Marking of materials.

(a) Except as provided in paragraph (d) [(e)] of this subsection, each valve, fitting, length of pipe, and other components shall [must] be marked as prescribed in:

1. The specification or standard to which it was manufactured; or

2. To indicate size, material, manufacturer, pressure rating, temperature rating and, as appropriate, type, grade and model. [MSS Standard Practice, SP-25.]

[(b) In addition to the requirements in paragraph (a) of this subsection, thermoplastic pipe manufactured in accordance with the 1974a or earlier listed edition of ASTM D2513 must be marked as required by section 9.2 of ASTM D2513 (1975b edition) unless the pipe was manufactured before May 18, 1978, and is installed where operating temperatures are not above thirty-eight (38) degrees Centigrade (100° F).]

(b) [(c)] Surfaces of pipe and components that are subject to stress from internal pressure shall [may] not be field die stamped.

(c) [(d)] If any item is marked by die stamping, the die shall [must] have blunt or rounded edges that will minimize stress concentrations.

(d) [(e)] Paragraph (a) of this subsection does not apply to items manufactured before November 12, 1970, that meet all of the following:

1. [The] Item is identifiable as to type, manufacturer, and model.

2. Specifications or standards giving pressure, temperature, and other appropriate criteria for [the] use of items are readily available.

(6) [(8)] Transportation of pipe. In a pipeline to be operated at a hoop stress of twenty (20) percent or more of SMYS, [an] operator shall [may] not use pipe having [an] outer diameter to wall thickness ratio of seventy to one (70 to 1), or more, which [than] is transported by railroad unless:

(a) [The] Transportation is performed in accordance with the most recent [1972] edition of API RP5L1, except that before February 25, 1975, [the] transportation may have been performed in accordance with the 1967 edition of API RP5L1.

(b) In the case of pipe transported before November 12, 1970, the pipe is tested in accordance with Section 11 of this regulation to at least one and one-fourth (1.25) times [the] maximum allowable operating pressure if it is to be installed in a Class 1 location, and to at least one and one-half (1.5) times [the] maximum allowable operating pressure if it is to be installed in a Class 2, 3, or 4 location. Notwithstanding any shorter time period permitted under Section 11 of this regulation, [the] test pressure must be maintained for at least eight (8) hours.

Section 3. Pipe Design. (1) Scope. This section prescribes [the] minimum requirements for [the] design of pipe.

(2) General. Pipe shall [must] be designed with sufficient wall thickness, or shall [must] be installed with adequate protection, to withstand anticipated external pressures and loads that will be imposed on [the] pipe after installation.

(3) Design formula for steel pipe.

(a) [The] Design pressure for steel pipe is determined in accordance with the following formula:

$$P = (2St/D) \times F \times E \times T$$

P = Design pressure in pounds per square inch gauge.

S = Yield strength in pounds per square inch determined in accordance with subsection (4) of this section.

D = Nominal outside diameter of [the] pipe in inches.

t = Nominal wall thickness of [the] pipe in inches. If this is unknown, it is determined in accordance with subsection (5) of this section. Additional wall thickness required for concurrent external loads in accordance with subsection (2) of this section shall [may] not be included in computing design pressure.

F = Design factor determined in accordance with subsection (6) of this section.

E = Longitudinal joint factor determined in accordance with subsection (7) of this section.

T = Temperature derating factor determined in accordance with subsection (8) of this section.

(b) If steel pipe that has been subjected to cold expansion [worked] to meet the SMYS is

subsequently heated, other than by welding or stress relieving as part of welding [, to 600°F or more, the] design pressure is limited to seventy-five (75) percent of the pressure determined under paragraph (a) of this subsection if temperature of pipe exceeds 900°F (482°C) at any time or is held above 600°F (316°C) for more than one (1) hour.

(4) Yield strength (s) for steel pipe.

(a) For pipe [that is] manufactured in accordance with a specification listed in Section I of Appendix B of this regulation, [the] yield strength to be used in the design formula in subsection (3) of this section is the SMYS stated in the listed specification, if that value is known.

(b) For pipe [that is] manufactured in accordance with a specification not listed in Section I of Appendix B to this regulation or whose specification or tensile properties are unknown, [the] yield strength to be used in the design formula in subsection (3) of this section is one of the following:

1. If [the] pipe is tensile tested in accordance with Section II-D of Appendix B to this regulation, the lower of the following:

a. Eighty (80) percent of [the] average yield strength determined by [the] tensile tests; or [.]

b. The lowest yield strength determined by [the] tensile tests, but no more than 52,000 psig.

2. If [the] pipe is not tensile tested as provided in paragraph (b)1 of this subsection, 24,000 psig.

(5) Nominal wall thickness (t) for steel pipe.

(a) If [the] nominal wall thickness for steel pipe is not known, it is determined by measuring the thickness of each piece of pipe at quarter points on one (1) end.

(b) However, if [the] pipe is of uniform grade, size and thickness and there are more than ten (10) lengths, only ten (10) percent of the individual lengths, but not less than ten (10) lengths, need be measured. [The] Thickness of [the] lengths [that are] not measured shall [must] be verified by applying a gauge set to the minimum thickness found by [the] measurement. [The] Nominal wall thickness to be used in the design formula in subsection (3) of this section is the next wall thickness found in commercial specifications that is below the average of all [the] measurements taken. However, [the] nominal wall thickness used shall [may] not be more than 1.14 times the smallest measurement taken on pipe less than twenty (20) inches in outside diameter, nor more than 1.11 times the smallest measurement taken on pipe twenty (20) inches or more in outside diameter.

(6) Design factor (F) for steel pipe.

(a) Except as otherwise provided in paragraphs (b), (c), and (d) of this subsection, the design factor to be used in the design formula in subsection (3) of this section is determined in accordance with the following table:

Class Location	Design Factor (F)
1	0.72
2	0.60
3	0.50
4	0.40

(b) A design factor of six-tenths (0.60) or less shall [must] be used in the design formula in subsection (3) of this section, for steel pipe in Class 1 locations that:

1. Cross the right-of-way of an unimproved public road, without a casing;

2. Cross without a casing, or makes a parallel encroachment on, the right-of-way of either a hard surfaced road, highway, public street, or railroad;

3. Are supported by a vehicular, pedestrian, railroad, or pipeline bridge; or

4. Are used in a fabricated assembly (including separators, mainline valve assemblies, cross-connections, and river crossing headers) or are used within five (5) pipe diameters in any direction from the last fitting of a fabricated assembly, other than a transition piece of an elbow used in place of a pipe bend [which is] not associated with a fabricated assembly.

(c) For Class 2 locations, a design factor of five-tenths (0.50) or less shall [must] be used in the design formula in subsection (3) of this section for uncased steel pipe that crosses the right-of-way of a hard surfaced road, highway, public street, or railroad.

(d) For Class 1 and Class 2 locations, a design factor of five-tenths (0.50) or less shall [must] be used in the design formula in subsection (3) of this section for:

1. Steel pipe in a compressor station, regulating station, or measuring station; and

2. Steel pipe, including a pipe riser, on a platform located offshore or in inland navigable waters.

(7) Longitudinal joint factor (E) for steel pipe. [The] Longitudinal joint factor to be used in the design formula in subsection (3) of this section is determined in accordance with the following table:

Specification	Pipe Class	Longitudinal Joint Factor (E)
ASTM A 53	Seamless	1.00
	Electric resistance welded	1.00
	Furnace butt welded	.60
ASTM A 106	Seamless	1.00
[ASTM A 134	Electric fusion arc welded	.80]
[ASTM A 135	Electric resistance welded	1.00]
[ASTM A 139	Electric fusion arc welded	.80]
[ASTM A 211	Spiral welded steel pipe	.80]
ASTM A 333	Seamless	1.00
	Electric resistance welded	1.00
ASTM A 381	Double submerged arc welded	1.00
ASTM A 671	Electric fusion welded	1.00
ASTM A 672	Electric fusion welded	1.00
ASTM A 691	Electric fusion welded	1.00
API 5L	Seamless	1.00
	Electric resistance welded	1.00
	Electric flash welded	1.00
	Submerged arc welded	1.00

[API 5LX	Seamless	1.00
	Electric resistance welded	1.00
	Electric flash welded	1.00
	Submerged arc welded	1.00
	Furnace butt welded	.60]
[API 5LS	Electric resistance welded	1.00
	Submerged arc welded	1.00]
Other	Pipe over 4 inches	.80
Other	Pipe 4 inches or less	.60

If the type of longitudinal joint cannot be determined, the joint factor to be used shall [must] not exceed that designated for "Other."

(8) Temperature derating factor (T) for steel pipe. [The] Temperature derating factor to be used in the design formula in subsection (3) of this section is determined as follows:

Gas temperature in degrees Fahrenheit	Temperature derating factor (T)
250 or less	1.000
300	0.967
350	0.933
400	0.900
450	0.867

For intermediate gas temperatures, [the] derating factor is determined by interpolation.

[(9) Design of cast iron pipe. Cast iron pipe must be designed in accordance with ANSI C101-67.]

[(10) Design of ductile iron pipe.]

[(a) Ductile iron pipe must be designed in accordance with ANSI A21.50 using the following values in the design equations:]

[s(design hoop stress) = 16,800 p.s.i.
f(design bending stress) = 36,000 p.s.i.]

[(b) Ductile iron pipe must be grade (60-42-10) and must conform to the requirements of ANSI A21.52.]

(9) [(11)] Design of plastic pipe. [The] Design pressure for plastic pipe is determined in accordance with the following formula, subject to the limitations of subsection (10) [(12)] of this section:

$$P = 2S \frac{t}{(D-t)} \times 0.32$$

P = Design pressure, gauge, kPa (psi).

S = For thermoplastic pipe the long-term hydrostatic strength determined in accordance with the listed specification at a temperature equal to twenty-three (23) degrees Centigrade (seventy-three (73) degrees Fahrenheit), thirty-eight (38) degrees Centigrade (100 degrees Fahrenheit), forty-nine (49) degrees Centigrade (120 degrees Fahrenheit), or sixty (60) degrees Centigrade (140 degrees Fahrenheit): for reinforced thermosetting plastic pipe, 75,800 kPa (11,000 psig).

t = Specified wall thickness, mm (in.).

D = Specified outside diameter, mm (in.).

(10) [(12)] Design limitations for plastic pipe.

(a) [The] Design pressure shall [may] not exceed [a] gauge pressure of 689 kPa (100 psig) for plastic pipe used in:

1. Distribution systems; or

2. Classes 3 and 4 locations.

(b) Plastic pipe shall [may] not be used where operating temperature of [the] pipe will be:

1. Below minus twenty-nine (29) degrees Centigrade (minus twenty (20) degrees Fahrenheit); or

2. In the case of thermoplastic pipe, above the temperature at which the long-term hydrostatic strength used in the design formula under subsection (9) [(11)] of this section is determined, except that pipe manufactured before May 18, 1978, may be used at temperatures up to thirty-eight (38) degrees Centigrade (100°F); or in the case of reinforced thermosetting plastic pipe, above sixty-six (66) degrees Centigrade (150°F).

(c) [The] Wall thickness for thermoplastic pipe shall [may] not be less than 1.57 millimeters (0.062 in.).

(d) [The] Wall thickness for reinforced thermosetting plastic pipe shall [may] not be less than that listed in the following table:

Nominal size in inches:	Minimum wall thickness millimeters (inches)
2	1.52 (0.060)
3	1.52 (0.060)
4	1.78 (0.070)
5	2.54 (0.100)

(11) [(13)] Design of copper pipe.

(a) Copper pipe used in mains shall [must] have a minimum wall thickness of 0.065 inches and shall [must] be hard drawn.

(b) Copper pipe used in service lines shall [must] have a [minimum] wall thickness not less than that indicated in the following table: [as specified for type "L" pipe in ASTM B 88.]

Standard size (inch)	Nominal O.D. (inch)	Wall thickness (inch) Nominal	Tolerance
1/2	.625	.040	.0035
5/8	.750	.042	.0035
3/4	.875	.045	.004
1	1.125	.050	.004
1 1/4	1.375	.055	.0045
1 1/2	1.625	.060	.0045

(c) Copper pipe used in mains and service lines shall [may] not be used at pressures in excess of 100 psig.

(d) Copper pipe that does not have an internal corrosion resistant lining shall [may] not be used to carry gas that has an average hydrogen sulfide content of more than three-tenths (0.3) grains per 100 standard cubic feet of gas.

Section 4. Design of Pipeline Components. (1) Scope. This section prescribes minimum requirements for [the] design and installation of pipeline components and facilities, and [. In addition,] it prescribes requirements relating to protection against accidental overpressuring.

(2) General requirements. Each component of a pipeline shall [must be able to] withstand operating pressures and other anticipated loadings without impairment of serviceability with unit stresses equivalent to those allowed for comparable material in pipe in the same location and kind of service. However, if design based upon unit stress is impractical for a particular component, design may be based upon a pressure rating established by the manufacturer

by pressure testing that component or a prototype of the component.

(3) Qualifying metallic components. Notwithstanding any requirement of this section which incorporates by reference an edition of a document listed in Appendix A of this regulation, a metallic component manufactured in accordance with any other edition of that document is qualified for use under this regulation if:

(a) It can be shown through visual inspection of the cleaned component that no defect exists which might impair the strength or tightness of the component; and

(b) The edition of the document under which the component was manufactured has equal or more stringent requirements for the following as an edition of that document currently or previously listed in Appendix A:

1. Pressure testing;
2. Materials; and
3. Pressure and temperature ratings.

(4) Valves.

(a) Except for cast iron and plastic valves, each valve shall meet the minimum requirements, or equivalent, of API 6D. A valve shall not be used under operating conditions that exceed the applicable pressure-temperature ratings contained in those requirements.

(b) Each cast iron and plastic valve shall comply with the following:

1. The valve shall have a maximum service pressure rating for temperatures that equal or exceed maximum service temperature.

2. The valve shall be tested as part of the manufacturing, as follows:

a. With the valve fully open, the shell shall be tested with no leakage to a pressure at least one and one-half (1.5) times the maximum service rating.

b. After the shell test, the seat shall be tested to a pressure not less than one and one-half (1.5) times the maximum service pressure rating. Except for swing check valves, test pressure during the seat test shall be applied successively on each side of the closed valve with the opposite side open. No visible leakage is permitted.

c. After the last pressure test is completed, the valve shall be operated through its full travel to demonstrate freedom from interference. [Each valve must meet the minimum requirements, or the equivalent, of API 6A, API 6D, MSS SP-70, MSS SO-71, or MSS SP-78. A valve may not be used under operating conditions that exceed the applicable pressure-temperature ratings contained in those standards.]

(c) [(b)] Each valve shall [must] be able to meet [the] anticipated operating conditions.

(d) [(c)] No valve having shell components made of ductile iron may be used at pressures exceeding eighty (80) percent of [the] pressure ratings for comparable steel valves at their listed temperatures. However, a valve having shell components made of ductile iron may be used at pressures up to eighty (80) percent of [the] pressure ratings for comparable steel valves at their listed temperatures, if:

1. [The] Temperature-adjusted service pressure does not exceed 1,000 psig; and

2. Welding is not used on any ductile iron component in the fabrication of the valve shells or their assembly.

(e) [(d)] No valve having pressure containing parts made of ductile iron may be used in [the] gas pipe components of compressor stations.

(5) Flanges and flange accessories.

(a) [General requirements.] Each flange or flange accessory (other than cast iron) shall [must] meet the minimum requirements of ANSI B16.5, MSS SP-44, [or ANSI B16.24,] or [the] equivalent.

(b) Each flange assembly shall [must be able to] withstand the maximum pressure at which the pipeline is to be operated and [to] maintain its physical and chemical properties at any anticipated temperature [to which it is anticipated that it might be subjected in service].

(c) Each flange on a flanged joint in cast iron pipe must conform in dimensions, drilling, face and gasket design to ANSI B16.1 and be cast integrally with the pipe, valve or fitting.

(6) Standard fittings.

(a) [The] Minimum metal thickness of threaded fittings shall [may] not be less than specified for [the] pressures and temperatures in [the] applicable standards referenced in this regulation, or their equivalent.

(b) Each steel butt-welding fitting shall [must] have pressure and temperature ratings based on stresses for pipe of [the] same or equivalent material. [The] Actual bursting strength of the fitting must at least equal the computed bursting strength of pipe of the designated material and wall thickness, as determined by a prototype [that was] tested to at least the pressure required for the pipeline to which it is being added.

(7) Tapping.

(a) Each mechanical fitting used to make a hot tap shall [must] be designed for at least [the] operating pressure of the pipeline.

(b) Where [a] ductile iron pipe is tapped, the extent of full-threaded engagement and [the] need for [the] use of outside-sealing service connections, tapping saddles, or other fixtures shall [must] be determined by service conditions.

(c) Where a threaded tap is made in cast iron or ductile iron pipe, [the] diameter of the tapped hole shall [may] not be more than twenty-five (25) percent of the nominal diameter of the pipe unless the pipe is reinforced, except that:

1. Existing taps may be used for replacement service, if they are free of cracks and have good threads; and

2. A one and one-fourth (1 1/4) inch tap may be made in a four (4) inch cast iron or ductile iron pipe, without reinforcement.

However, in areas where climate, soil, and service conditions may create unusual external stresses on cast iron pipe, unreinforced taps may be used only on six (6) inch or larger pipes.

(8) Components fabricated by welding.

(a) Except for branch connections and assemblies of standard pipe and fittings joined by circumferential welds, [the] design pressure of each component fabricated by welding, whose strength cannot be determined, shall [must] be established in accordance with paragraph UG-101 of Section VIII of the ASME Boiler and Pressure Vessel Code.

(b) Each prefabricated unit that uses plate and longitudinal seams shall [must] be designed, constructed, and tested in accordance with ASME Boiler and Pressure Vessel Code, except for the following:

1. Regularly manufactured butt-welding fittings.

2. Pipe [that has been] produced and tested under a specification listed in Appendix B to this regulation [part].

3. Partial assemblies such as split rings or collars.

4. Prefabricated units that the manufacturer certifies have been tested to at least twice the anticipated maximum pressure [to which they will be subjected] under [the anticipated] operating conditions.

(c) Orange peel bull plugs and orange peel swages shall [may] not be used on pipelines that are to operate at [a] hoop stress of twenty (20) percent or more of [the] SMYS of the pipe.

(d) Except for flat closures designed in accordance with section VIII of the ASME Boiler and Pressure Vessel Code, flat closures and fish tails shall [may] not be used on pipe that either operates at 100 psig, or more, or is more than three (3) inches nominal diameter.

(9) Welded branch connections. Each welded branch connection made to pipe in the form of a single connection, or in a header or manifold as a series of connections, shall [must] be designed to ensure that [the] strength of the pipeline system is not reduced, taking into account [the] stresses in the remaining pipe wall due to the opening in the pipe or header, [the] shear stresses produced by [the] pressure acting on the area of the branch opening, and any external loadings due to thermal movement, weight, and vibration.

(10) Extruded outlets. Each extruded outlet shall [must] be suitable for anticipated service conditions and shall [must] be at least equal to [the] design strength of the pipe and other fittings in the pipeline to which it is attached.

(11) Flexibility. Each pipeline shall [must] be designed with enough flexibility to prevent thermal expansion or contraction from causing excessive stresses in [the] pipe or components, excessive bending or unusual loads at joints, or undesirable forces or moments at points of connection to equipment, or at anchorage or guide points.

(12) Supports and anchors.

(a) Each pipeline and its associated equipment shall [must] have enough anchors or supports to:

1. Prevent undue strain on connected equipment;

2. Resist longitudinal forces caused by a bend or offset in the pipe; and

3. Prevent or damp out excessive vibration.

(b) Each exposed pipeline shall [must] have enough supports or anchors to protect the exposed pipe joints from [the] maximum end force caused by internal pressure and any additional forces caused by temperature expansion or contraction or by [the] weight of the pipe and its contents.

(c) Each support or anchor on an exposed pipeline shall [must] be made of durable, noncombustible material and shall [must] be designed and installed as follows:

1. Free expansion and contraction of the pipeline between supports or anchors shall [may] not be restricted.

2. Provision shall [must] be made for [the] service conditions involved.

3. Movement of the pipeline shall [may] not cause disengagement of [the] support equipment.

(d) Each support on an exposed pipeline operated at a stress level of fifty (50) percent of more of SMYS shall [must] comply with the following:

1. A structural support shall [may] not be welded directly to the pipe.

2. The support shall [must] be provided by a member that completely encircles the pipe.

3. If an encircling member is welded to a pipe, the weld shall [must] be continuous and cover the entire circumference.

(e) Each underground pipeline [that is] connected to a relatively unyielding line or other fixed object shall [must] have enough flexibility to provide for possible movement, or it shall [must] have an anchor that will limit [the] movement of the pipeline.

(f) Except for offshore pipelines each underground pipeline [that is] being connected to new branches shall [must] have firm foundation for both the header and [the] branch to prevent detrimental lateral and vertical movement.

(13) Compressor stations: design and construction.

(a) Location of compressor building. Except for a compressor building on a platform in inland navigable waters, each main compressor building of a compressor station shall [must] be located on property under the operator's control [of the operator]. It shall [must] be far enough away from adjacent property, not under control of the operator, to minimize the possibility of fire being transferred [communicated] to the compressor building from structures on adjacent property. There shall [must] be enough open space around the main compressor building to allow [the] free movement of firefighting equipment.

(b) Building construction. Each building on a compressor station site shall [must] be made of noncombustible materials if it contains either:

1. Pipe that is more than two (2) inches in diameter and [that is] carrying gas under pressure; and

2. Gas handling equipment other than gas utilization equipment used for domestic purposes.

(c) Exits. Each operating floor of a main compressor building shall [must] have at least two (2) separated and unobstructed exits located [so as] to provide a convenient possibility of escape and [an] unobstructed passage to [a place of] safety. Each exit door latch shall [on an exit must] be of a type which can be readily opened from [the] inside without a key. Each swinging door located in an exterior wall shall [must] be mounted to swing outward.

(d) Fenced areas. Each fence around a compressor station shall [must] have at least two (2) gates located [so as] to provide [a] convenient opportunity for escape to [a place of] safety, or have other facilities affording a similarly convenient exit from the area. Each gate located within 200 feet of any compressor plant building shall [must] open outward and, when occupied, shall be of a type that can be readily opened from inside without a key [must be openable from the inside without a key].

(e) Electrical areas. Electrical equipment and wiring installed in compressor stations shall [must] conform to the National Electrical Code, NFPA-70(ANSI), so far as that code is applicable.

(f) Air piping system.

1. All air piping within gas compressing stations shall be constructed in accordance with Section 2 of the USAS B31.1 Code for Pressure Piping.

2. [The] Starting air pressure, storage volume and size of connection piping shall be adequate to rotate the engine at [the] cranking speed and

for the number of revolutions necessary to purge [the] fuel gas from the power cylinder and muffler. [The] Recommendations of the engine manufacturer may be used as a guide in determining these factors. Consideration should be given to the number of engines installed and to the possibility of [having to] starting several of these engines within a short period of time.

3. A check valve shall be installed in the starting air line near each engine to prevent backflow from the engine into the piping system. A check valve shall also be placed in the main air line on the immediate outlet side of the air tank or tanks. It is recommended that equipment for cooling [the] air and removing [the] moisture and entrained oil be installed between the starting air compressor and [the] air storage tanks.

4. Suitable provision shall be made to prevent starting air from entering [the] power cylinders of an engine and activating moving parts while work is in progress on the engine or on equipment driven by the engines. Acceptable means of accomplishing this are installation of a blind flange, removal of a portion of the air supply piping or locking closed a stop valve and locking open a vent downstream from it.

(g) Air receivers. Air receivers or air storage bottles, for use in compressor stations, shall be constructed and equipped in accordance with Section VII, Unfired Pressure Vessels, of the ASME Boiler and Pressure Vessel Code.

(h) Lubricating oil piping. All lubricating oil piping with gas compressing stations shall be constructed in accordance with USA Standard Code for Pressure Piping, Petroleum Refinery Piping, USAS B 31.3.

(i) Water and steam piping. All water and steam piping within gas compressing stations shall be constructed in accordance with USA Standard Code for Pressure Piping, Power Piping, USAS B31.0.0.

(j) Hydraulic piping. All hydraulic power piping within gas compressing stations shall be constructed in accordance with USA Standard Code for Pressure Piping, Petroleum Refinery Piping, USAS B31.3.

(14) Compressor stations; liquid removal.

(a) Where entrained vapors in gas may liquefy under [the] anticipated pressure and temperature conditions, the compressor shall [must] be protected against [the] introduction of those liquids in damaging quantities [that could cause damage].

(b) Each liquid separator used to remove entrained liquids at a compressor station shall [must]:

1. Have a manually operable means of removing these liquids.

2. Where slugs of liquid could be carried into the compressors, have either automatic liquid removal facilities, [an] automatic compressor shutdown device, or [a] high liquid level alarm; and

3. Be manufactured in accordance with Section VIII of the ASME Boiler and Pressure Vessel Code, except that liquid separators constructed of pipe and fittings without internal welding shall [must] be fabricated with a design factor of four-tenths (0.4) or less.

(15) Compressor stations: emergency shutdowns.

(a) Except for unattended field compressor stations of 1,000 horsepower or less, each compressor station shall [must] have an emergency shutdown system that can do [meets] the following:

1. [It must be able to] Block gas out of the station and blow down the station piping.

2. [It must] Discharge gas from the blowdown piping at a location where [the] gas will not create a hazard.

3. [It must] Provide means for [the] shutdown of gas compressing equipment, gas fires, and electrical facilities in the vicinity of gas headers and in the compressor building, except, that:

a. Electric circuits that supply emergency lighting required to assist station personnel in evacuating the compressor building and the area in the vicinity of the gas headers shall [must] remain energized; and

b. Electrical circuits needed to protect equipment from damage may remain energized.

4. It shall [must] be operable from at least two (2) locations, each of which is:

a. Outside the gas area of the station;

b. Near the exit gates, if [the] station is fenced; or near emergency exits, if not fenced; and

c. Not more than 500 feet from the limits of the stations.

(b) If a compressor station supplies gas directly to a distribution system with no other adequate source of gas available, the emergency shutdown system shall [must] be designed to prevent [so that it will not] function at the wrong time and [cause an] unintended outage on the distribution system.

(c) On a platform located in inland navigable waters, the emergency shutdown system shall [must] be designed and installed to actuate automatically by each of the following events:

1. In the case of an unattended compressor station:

a. When [the] gas pressure equals [the] maximum allowable operating pressure plus fifteen (15) percent; or

b. When [an] uncontrolled fire occurs on the platform; and

2. In the case of a compressor station in a building:

a. When [an] uncontrolled fire occurs in the building; or

b. When the concentration of gas in air reaches fifty (50) percent or more of the lower explosive limit in a building which has a source of ignition.

For the purpose of paragraph (c)2 of this subsection, an electrical facility which conforms to Class 1, Group D of the National Electrical Code is not a source of ignition.

3. All emergency valves and controls shall be identified by signs. All important gas pressure piping shall be identified by signs or color codes as to their function.

(16) Compressor stations: pressure limiting devices.

(a) Each compressor station shall [must] have pressure relief or other suitable protective devices of sufficient capacity and sensitivity to ensure that [the] maximum allowable operating pressure of [the] station piping and equipment is not exceeded by more than ten (10) percent.

(b) Each vent line that exhausts gas from the pressure relief valve of a compressor station shall [must] extend to a location where [the] gas may be discharged without hazard.

(17) Compressor stations: additional safety equipment.

(a) Each compressor station shall [must] have adequate fire protection facilities. If fire pumps are a part of these facilities, their operation shall [may] not be affected by the emergency shutdown system.

(b) Each compressor station prime mover, other than an electrical induction or synchronous motor, shall [must] have an automatic device to shut down the unit before the speed of either the prime mover or [the] driven unit exceeds maximum safe speed.

(c) Each compressor unit in a compressor station shall [must] have a shutdown or alarm device that operates in the event of inadequate cooling or lubrication of the unit.

(d) Each compressor station gas engine that operates with pressure gas injection shall [must] be equipped so that stoppage of the engine automatically shuts off [the] fuel and vents the engine distribution manifold.

(e) Each muffler for a gas engine in a compressor station shall [must] have vent slots or holes in the baffles of each compartment to prevent gas from being trapped in the muffler.

(f) [All] Fuel gas lines within a compressor station, serving [the] various buildings and residential areas, shall be provided with master shutoff valves located outside of any building or residential area.

(18) Compressor stations: ventilation. Each compressor station building shall [must] be ventilated to ensure that employees are not endangered by [the] accumulation of gas in rooms, sumps, attics, pits, or other enclosed places.

(19) Pipe-type and bottle-type holders.

(a) Each pipe-type and bottle-type holder shall [must] be designed [so as] to prevent [the] accumulation of liquids in the holder, [in] connecting pipe, or [in] auxiliary equipment, that might cause corrosion or interfere with [the] safe operation of the holder.

(b) Each pipe-type or bottle-type holder shall [must] have minimum clearance from other holders in accordance with the following formula:

$$C = (3D \times P \times F)/1,000$$

in which:

C = Minimum clearance between pipe containers or bottles in inches.

D = Outside diameter of pipe containers or bottles in inches.

P = Maximum allowable operating pressure, psig.

F = Design factor as set forth in Section 3(6) of this regulation.

(20) Additional provisions for bottle-type holders.

(a) Each bottle-type holder shall [must] be:

1. Located on a [storage] site entirely surrounded by fencing that prevents access by unauthorized persons and with minimum clearance from [the] fences as follows:

Maximum allowable Operating pressure	Minimum clearance (feet)
Less than 1,000 psig	25
1,000 psig or more	100

2. Designed using the design factors set forth in Section 3(6) of this regulation; and

3. Buried with [a] minimum cover in accordance with Section 7(13) of this regulation.

(b) Each bottle-type holder manufactured from steel [that is] not weldable under field conditions shall [must] comply with the following:

1. A bottle-type holder made from alloy steel shall [must] meet the chemical and tensile requirements for [the] various grades of steel in [either API Standard 5A or] ASTM A 372.

2. [The] Actual yield-tensile ratio of [the] steel shall [may] not exceed 0.85.

3. Welding shall [may] not be performed on the holder after it has been heat treated or stress relieved, except that copper wires may be attached to the small diameter portion of the bottle end closure for cathodic protection if a localized thermal welding process is used.

4. The holder shall [must] be given a mill hydrostatic test at [a] pressure that produces [a] hoop stress at least equal to eighty-five (85) percent of [the] SMYS.

5. The holder, connection pipe, and components shall [must] be leak tested after installation as required by Section 11 of this regulation.

(21) Transmission line valves.

(a) Each transmission line shall [must] have sectionalizing block valves spaced as follows:

1. Each point on the pipeline in a Class 4 location shall [must] be within two and one-half (2 1/2) miles of a valve.

2. Each point on the pipeline in a Class 3 location shall [must] be within four (4) miles of a valve.

3. Each point on the pipeline in a Class 2 location shall [must] be within seven and one-half (7 1/2) miles of a valve.

4. Each point on the pipeline in [a] Class 1 location shall [must] be within ten (10) miles of a valve.

(b) Each sectionalizing block valve on a transmission line shall [must] comply with the following:

1. The valve and [the] operating device to open or close the valve shall [must] be readily accessible and protected from tampering and damage.

2. The valve shall [must] be supported to prevent settling of [the] valve or movement of the pipe to which it is attached.

(c) Each section of [a] transmission line between main line valves shall [must] have a blowdown valve with enough capacity to allow the transmission line to be blown down as rapidly as practicable. Each blowdown discharge must be located so [the] gas can be blown to the atmosphere without hazard and, if the transmission line is adjacent to an overhead electric line, so that [the] gas is directed away from the electrical conductors.

(22) Distribution line valves.

(a) Each high-pressure distribution system shall [must] have valves spaced [so as] to reduce the time to shut down a section of main in an emergency. [The] Valve spacing is determined by [the] operating pressure, [the] size of [the] mains, and [the] local physical conditions.

(b) Each valve on a main installed for operating or emergency purposes shall [must comply with the following:]

[1. The valve must] be placed in a readily accessible location [so as] to facilitate its operation in an emergency, and its [.

2. The] operating stem or mechanism shall

[must] be readily accessible.

[3.] If the valve is installed in a buried box or enclosure, the box or enclosure shall [must] be installed [so as] to avoid transmitting external loads to the main.

(23) Valves at regulator stations.

(a) Each regulator station controlling [the] flow or pressure of gas in a distribution system shall [must] have a valve installed on the inlet piping at a distance from the regulator station sufficient to permit [the] operation of the valve during an emergency that might preclude access to the station.

(b) Exterior shutoff valves shall be installed on all lines entering and leaving regulator stations for use in an emergency to stop gas flow [the flow of gas]. Such valves shall be installed at an accessible [point and] location where they can be operated in [case of] an emergency.

1. [The] Exterior shutoff valves shall [must] be located a minimum of forty (40) feet from the regulator station if [the] inlet pressure to the station is 100 psig or less. [The] Valves shall be located a minimum of 100 feet from the regulator station if [the] inlet pressure is more than 100 psig.

2. A check valve may be used in lieu of an exterior shutoff valve on [the] downstream piping if located a minimum of forty (40) feet from the regulator station.

3. The exterior shutoff valve may be a sectionalizing valve.

4. All exterior shutoff valves shall be inspected and partially operated at least once each calendar year at intervals not to exceed fifteen (15) months[; but at least once each calendar year].

(24) Vaults: structural design requirements.

(a) Each underground vault or pit for valves, pressure relieving, pressure limiting, or pressure regulating stations shall [must be able to] meet the loads which may be imposed upon it, and to protect installed equipment.

(b) There shall [must] be enough working space so that all [of the] equipment required in the vault or pit can be properly installed, operated, and maintained.

(c) Each pipe entering, or within, a regulator vault or pit shall [must] be steel for sizes ten (10) inches, and less, except that control and gauge piping may be copper. Where pipe extends through the vault or pit structure, provision shall [must] be made to prevent [the] passage of gases or liquids through the opening and to avert strains in the pipe.

(d) Vault or pit openings shall be located [so as] to minimize [the] hazards of tools or other objects falling upon the regulator, piping or other equipment. The control piping and [the] operating parts of [the] equipment installed shall not be located under a vault or pit opening where workmen can step on them when entering or leaving the vault or pit, unless such parts are suitably protected.

(e) Whenever a vault or pit opening is to be located above equipment which could be damaged by a falling cover, a circular cover shall [should] be installed or other suitable precautions taken.

(25) Vaults: accessibility. Each vault shall [must] be located in an accessible location, so far as practical, away from:

(a) Street intersections or points where traffic is heavy or dense;

(b) Points of minimum elevation, catch basins, or places where the access cover will be in the course of surface waters; and

(c) Water, electric, steam, or other facilities.

(26) Vaults: sealing, venting, and ventilation. Each underground vault or closed top pit containing either a pressure regulating or reducing station, or a pressure limiting or relieving station, shall [must] be sealed, vented or ventilated, as follows:

(a) When [the] internal volume exceeds 200 cubic feet:

1. The vault or pit shall [must] be ventilated with two (2) ducts, each having at least the ventilating effect of a pipe four (4) inches in diameter;

2. [The] Ventilation shall [must] be enough to minimize [the] formation of combustible atmosphere in the vault or pit; and

3. [The] Ducts shall [must] be high enough above grade to disperse any gas-air mixtures that might be discharged.

(b) When [the] internal volume is more than seventy-five (75) cubic feet but less than 200 cubic feet:

1. If the vault or pit is sealed, each opening shall [must] have a tight fitting cover without open holes through which an explosive mixture might be ignited, and there shall [must] be a means for testing [the] internal atmosphere before removing the cover.

2. If the vault or pit is vented, there shall [must] be a means of preventing external sources of ignition from reaching the vault atmosphere; or

3. If the vault or pit is ventilated, paragraph (a) or (c) of this subsection applies.

(c) If a vault or pit covered by paragraph (b) of this subsection is ventilated by openings in [the] covers or gratings, and the ratio of [the] internal volume, in cubic feet, to [the] effective ventilating area of the cover or grating, in square feet, is less than twenty (20) to one (1), no additional ventilation is required.

(27) Vaults: drainage and waterproofing.

(a) Each vault shall [must] be designed [so as] to minimize [the] entrance of water.

(b) A vault containing gas piping shall [may] not be connected by means of a drain connection to any other underground structure.

(c) All electrical equipment in vaults shall [must] conform to [the] applicable requirements of Class 1, Group D, of the National Electrical Code, ANSI Standard C1.

(28) Design pressure of plastic fittings.

(a) Thermosetting fittings for plastic pipe shall [must] conform to ASTM D 2517.

(b) Thermoplastic fittings for plastic pipe shall conform to ASTM D 2513. [The design pressure of acrylonitrile-butadiene-styrene (ABS) and polyvinyl chloride (PVC) Schedule 40 and 80 thermoplastic fittings must be obtained from the following table:]

[Design Pressure of Thermoplastic Fittings PSIG of Various Strengths, Materials and Class Locations

Size Inches	Schedule	ABS Type 1 and PVC Type II class location			PVC Type 1 class location		
	Class Location	1	2 and 3	4	1	2 and 3	4
1/2	40	100	100	100	100	100	100
	80	100	100	100	100	100	100
1/4	40	100	100	96	100	100	100
	80	100	100	100	100	100	100
1	40	100	100	90	100	100	100
	80	100	100	100	100	100	100
1 1/4	40	100	92	74	100	100	100
	80	100	100	100	100	100	100
1 1/2	40	100	83	66	100	100	100
	80	100	100	94	100	100	100
2	40	89	69	55	100	100	100
	80	100	100	81	100	100	100
2 1/2	40	99	76	61	100	100	100
	80	100	100	85	100	100	100
3	40	84	66	53	100	100	100
	80	100	94	75	100	100	100
3 1/2	40	77	60	48	100	100	96
	80	100	86	69	100	100	100
4	40	71	56	44	100	100	89
	80	100	81	65	100	100	100
5	40	62	49	39	100	97	78
	80	93	72	58	100	100	100
6	40	56	44	35	100	88	71
	80	89	70	56	100	100	100

NOTE: These pressure ratings are the same value as the design pressure of the corresponding pipe size and schedule in the same class location, as determined by the formula given Section 3(11) of this regulation and the limitations in Section 3(12) of this regulation.]

(29) Valve installation in plastic pipe. Each valve installation in plastic pipe shall [must] be designed [so as] to protect [the] plastic material against excessive torsional or shearing loads when the valve or shutoff is operated, and from any other secondary stresses that might be exerted through the valve or its enclosures.

(30) Protection against accidental overpressuring:

(a) General requirements. Except as provided in subsection (31) of this section, each pipeline [that is] connected to a gas source so that [the] maximum allowable operating pressure could be exceeded as the result of pressure control failure or of some other type of failure, shall [must] have pressure relieving or pressure limiting devices that meet the requirements of subsections (32) and (33) of this section.

(b) Additional requirements for distribution systems. Each distribution system [that is] supplied from a source of gas [that is] at [a] higher pressure than [the] maximum allowable operating pressure for the system shall [must]:

1. Have pressure regulation devices capable of meeting [the] pressure, load, and other service conditions that will be experienced in normal operations of the system, and that could be activated in the event of failure of some portion of the system; and

2. Be designed [so as] to prevent accidental overpressuring.

(31) Control of [the] pressure of gas delivered from high-pressure distribution systems.

(a) If [the] maximum actual operating pressure of the distribution system is under 60 psig and a service regulator having all of the following characteristics is used, no other pressure limiting device is required:

1. A regulator capable of reducing distribution line pressure to pressures recommended for household appliances.

2. A single port valve with proper orifice for [the] maximum gas pressure at the regulator inlet.

3. A valve seat made of resilient material designed to withstand abrasion of [the] gas, impurities in [the] gas, cutting by the valve, and [to resist] permanent deformation when it is pressed against the valve port.

4. Pipe connections to the regulator not exceeding two (2) inches in diameter.

5. A regulator that, under normal operating conditions, is able to regulate [the] downstream pressure within [the] necessary limits of accuracy and to limit [the] buildup of pressure under no-flow conditions to prevent a pressure that would cause [the] unsafe operation of any connected and properly adjusted gas utilization equipment.

6. A self-contained service regulator with no external static or control lines.

(b) If [the] maximum actual operating pressure of the distribution system is sixty (60) psig, or less, and a service regulator that does not have all of the characteristics listed in paragraph (a) of this subsection is used, or if the gas contains materials that seriously interfere with the operation of service regulators, there shall [must] be suitable protective devices to prevent unsafe overpressuring of the customer's appliances if the service regulator fails.

(c) If [the] maximum actual operating pressure of the distribution system exceeds sixty (60) psig, one (1) of the following methods shall [must] be used to regulate and limit, to [the] maximum safe value, the pressure of gas delivered to the customer:

1. A service regulator having the characteristics listed in paragraph (a) of this subsection, and another regulator located upstream from the service regulator. The upstream regulator shall [may] not be set to maintain a pressure higher than sixty (60) psig. A device shall [must] be installed between the upstream regulator and the service regulator to limit [the] pressure on the inlet of the service regulator to sixty (60) psig or less in case the upstream regulator fails to function properly. This device may be either a relief valve or an automatic shutoff that shuts, if [the] pressure on the inlet of the service regulator exceeds the set pressure (sixty (60) psig or less), and remains closed until manually reset.

2. A service regulator and a monitoring regulator set to limit, to a maximum safe value, [the] pressure of [the] gas delivered to the customer.

3. A service regulator with a relief valve vented to the outside atmosphere, with the relief valve set to open so that the pressure of gas going to the customer does not exceed a maximum safe value. The relief valve may either be built into the service regulator or it may either be built into the service regulator or it may be a separate unit installed downstream from the service regulator. This combination may be

used alone only in those cases where [the] inlet pressure on the service regulator does not exceed the manufacturer's safe working pressure rating of the service regulator, and shall [may] not be used where [the] inlet pressure on the service regulator exceeds 125 psig. For higher inlet pressure, the methods in paragraph (c)1 or 2 of this subsection shall [must] be used.

4. A service regulator and an automatic shutoff device that closes upon a rise in pressure downstream from the regulator and remains closed until manually reset.

(32) Requirements for design of pressure relief and limiting devices. Except for rupture discs, each pressure relief or pressure limiting device shall [must]:

(a) Be constructed of materials to prevent [such that the] operation [of the device will not be] impairment [ed] by corrosion;

(b) Have valves and valve seats [that are] designed not to stick in a position that will make the device inoperative;

(c) Be designed and installed so that it can be readily operated to determine if the valve is free, can be tested to determine operational [the] pressure [at which it will operate,] and can be tested for leakage when [in the] closed [position];

(d) Have support made of noncombustible material;

(e) Have discharge stacks, vents, or outlet ports designed to prevent accumulation of water, ice, or snow, located where gas can be discharged into the atmosphere without undue hazard;

(f) Be designed and installed so that the size of [the] openings, pipe, and fittings located between the system to be protected and the pressure relieving device, and the size of the vent line, are adequate to prevent hammering of the valve and to prevent impairment of relief capacity;

(g) Where installed at a district regulator station to protect a pipeline system from overpressuring, be designed and installed to prevent any single incident such as an explosion in a vault or damage by a vehicle from affecting [the] operation of both the overpressure protective device and [the] district regulator; and

(h) Except for a valve that will isolate the system under protection from its source of pressure, be designed to prevent unauthorized operation of any stop valve that will make the pressure relief valve or pressure limiting device inoperative.

(33) Required capacity of pressure relieving and limiting stations.

(a) Each pressure relief station or pressure limiting station or group of those stations installed to protect [a] pipeline shall [must] have enough capacity, and shall [must] be set to operate, to insure the following:

1. In a low pressure distribution system, [the] pressure shall [may] not cause [the] unsafe operation of any connected and properly adjusted gas utilization equipment.

2. In pipelines other than a low pressure distribution system:

a. If [the] maximum allowable operating pressure is sixty (60) psig or more, [the] pressure shall [may] not exceed [the] maximum allowable operating pressure plus ten (10) percent, or the pressure that produces [a] hoop stress of seventy-five (75) percent of SMYS, whichever is lower.

b. If [the] maximum allowable operating pressure is twelve (12) psig or more, but less than sixty (60) psig, [the] pressure shall [may] not exceed [the] maximum allowable operating pressure plus six (6) psig; or

c. If [the] maximum allowable pressure is less than twelve (12) psig, [the] pressure shall [may] not exceed [the] maximum allowable operating pressure plus fifty (50) percent.

(b) When more than one (1) pressure regulating or compressor station feeds into a pipeline, relief valves or other protective devices shall [must] be installed at each station to ensure that [the] complete failure of the largest capacity regulator or compressor, or any single run of lesser capacity regulators or compressors in that station, will not impose pressure on any part of the pipeline or distribution system in excess of those for which it was designed, or against which it was protected, whichever is lower.

(c) Relief valves or other pressure limiting devices shall [must] be installed at or near each regulator station in a low-pressure distribution system, with a capacity to limit [the] maximum pressure in the main to a pressure that will not exceed [the] safe operating pressure for any connected and properly adjusted gas utilization equipment.

(34) Instrument, control and sampling pipe and components.

(a) Applicability. This subsection applies to [the] design of instrument, control, [and] sampling pipe and components. It does not apply to permanently closed systems, such as fluid-filled temperature-responsive devices.

(b) Materials and design. All material employed for pipe and components shall [must] be designed to meet [the] particular conditions of service and the following:

1. Each takeoff connection and attaching boss, fitting, or adapter shall [must] be made of suitable material, be able to withstand [the] maximum service pressure and temperature of [the] pipe or equipment to which it is attached, and be designed to satisfactorily withstand all stresses without failure by fatigue.

2. A shutoff valve shall [must] be installed in each takeoff line as near as practicable to [the] point of takeoff. Blowdown valves shall [must] be installed where necessary.

3. Brass or copper material shall [may] not be used for metal temperatures greater than 400 degrees Fahrenheit.

4. Pipe or components that may contain liquids shall [must] be protected by heating or other means from damage due to freezing.

5. Pipe or components in which liquids may accumulate shall [must] have drains or drips.

6. Pipe or components subject to clogging from solids or deposits shall [must] have suitable connections for cleaning.

7. [The] Arrangement of pipe, components, and supports shall [must] provide safety under anticipated operating stresses.

8. Each joint between sections of pipe, and between pipe and valves or fittings, shall [must] be made in a manner suitable for [the] anticipated pressure and temperature condition. Slip type expansion joints shall [may] not be used. Expansion shall [must] be allowed [for] by providing flexibility within the system itself.

9. Each control line shall [must] be protected from anticipated causes of damage and shall

[must] be designed and installed to prevent damage to any one (1) control line from making both the regulator and [the] overpressure protective device inoperative.

Section 5. Welding of Steel in Pipelines. (1) Scope.

(a) This subsection prescribes minimum requirements for welding steel materials in pipelines.

(b) This subsection does not apply to welding that occurs during the manufacture of steel pipe or steel pipeline components.

[(2) General.]

[(a) Welding must be performed in accordance with established written welding procedures that have been qualified under subsection (3) of this section to produce sound, ductile welds.]

[(b) Welding must be performed by welders who are qualified under subsections (4) and (5) of this section for the welding procedure to be used.]

(2) [(3)] Qualification of welding procedures.

(a) [Each] Welding shall be performed by a qualified welder in accordance with established, written, and tested welding procedures; and quality of test welds determined by destructive testing to meet acceptability standards of this section. [procedure must be qualified under Section IX of the ASME Boiler and Pressure Vessel Code or Section 2 of API Standard 1104, whichever is appropriate to the function of the weld, except that a welding procedure qualified under an earlier edition previously listed in Appendix A may continue to be used but may not be requalified under the earlier edition.]

(b) Each [When a] welding procedure shall be recorded in detail, including results of qualifying tests. This record shall be retained and followed whenever the procedure is used. [is being qualified under Section IX of the ASME Boiler and Pressure Vessel Code, the following steels are considered to fall within the P-Number 1 grouping for the purpose of the essential variables and do not require separate qualification of welding procedures:]

[1. Carbon steels that have a carbon content of 0.32 percent (heat analysis) or less.]

[2. Carbon steels that have a carbon equivalent (C + 1/4 Mn) of 0.65 percent (heat analysis) or less.]

[3. Alloy steel with weldability characteristics that have been shown to be similar to the carbon steels listed in paragraph (b)1 and 2 of this subsection. Alloy steels and carbon steels that are not covered by paragraph (b)1, 2 or 3 of this subsection require separate qualification of procedures for each individual pipe specification in accordance with Sections VIII and IX of the ASME Boiler and Pressure Vessel Code.]

[(c) Each welding procedure must be recorded in detail during the qualifying tests. This record must be retained and followed whenever the procedure is used.]

(3) [(4)] Qualification of welders.

(a) Except as provided in paragraph (b) [(c)] of this subsection, each welder shall [must] be qualified in accordance with Section 3 [IX] of the API Standard 1104 or Section IX of the ASME Boiler and Pressure Vessel Code [or Section 3 of the API Standard 1104]. However, a welder qualified under an earlier edition than listed in Section II of Appendix A [previously listed in Appendix A] may weld but shall [may] not requalify under that earlier edition.

[1. Section IX of the 1974 edition of the ASME Boiler and Pressure Vessel Code or, if qualified before July 1, 1976, the 1968 edition, except that a welder may not requalify under the 1968 edition.]

[2. The following editions of Section 3 of API Standard 1104:]

[a. The 1973 edition, except that a welder may be qualified by radiography under subsection 3.51 without regard for the standards in subsection 6.9 for depth of undercutting adjacent to the root bead unless that depth is visually determined by use of a depth measuring device on all undercutting along the entire circumference of the weld; or]

[b. If a welder is qualified before March 20, 1975, the 1968 edition, except that a welder may not requalify under the 1968 edition.]

[(b) When a welder is being qualified under Section IX of the ASME Boiler and Pressure Vessel Code, the following steels are considered to fall within the P-Number grouping for the purpose of the essential variables and do not require separate qualification.]

[1. Carbon steels that have a carbon content of 0.32 percent (heat analysis) or less.]

[2. Carbon steels that have a carbon equivalent (C + 1/4 Mn) of 0.65 percent (heat analysis) or less.]

[3. Alloy steel with weldability characteristics that have been shown to be similar to the carbon steels listed in paragraph (b)1 and 2 of this subsection. Alloy steels and carbon steels that are not covered by paragraph (b)1, 2 or 3 of this subsection require separate qualification of welders for each individual pipe specification in accordance with Sections VIII and IX of the ASME Boiler and Pressure Vessel Code.]

(b) [(c)] A welder may qualify to perform welding on pipe to be operated at [a] pressure that produces [a] hoop stress of less than twenty (20) percent of SMYS by performing an acceptable test weld for the process to be used, under the test set forth in Section 1 of Appendix C to this regulation. A welder who makes welded service line connections to mains shall [must] also perform an acceptable test weld under Section II of Appendix C to this regulation as a part of his qualifying test. After initial qualification, a welder shall [may] not perform welding unless:

1. Within the preceding fifteen (15) calendar months, the welder has requalified, except that the welder shall [must] requalify at least once each calendar year; or

2. Within the preceding seven and one-half (7 1/2) calendar months, but at least twice each calendar year, the welder has had:

a. A production weld cut out, tested and found acceptable in accordance with the qualifying test; or

b. For welders who work only on service lines two (2) inches or smaller in diameter, two (2) sample welds tested and found acceptable in accordance with the test in Section III of Appendix C to this regulation.

(4) [(5)] Limitations on welders.

(a) No welder whose qualification is based on nondestructive testing shall [may] weld compressor station pipe and components.

(b) No welder shall [may] weld with a particular welding process unless, within the preceding six (6) calendar months, he has

engaged in welding with that process.

(c) A welder qualified under subsection (3) [(4)](a) of this section shall [may] not weld unless, within the preceding six (6) calendar months, the welder has had one (1) weld tested and found acceptable under Section 3 or 6 of API Standard 1104, except that a welder qualified under an earlier edition previously listed in Appendix A may weld but shall [may] not requalify under that earlier edition.

(5) [(6)] Protection from weather. The welding operation shall [must] be protected from weather conditions that would impair the quality of the completed weld.

(6) [(7)] Miter joints.

(a) A miter joint on steel pipe to be operated at [a] pressure that produces [a] hoop stress of thirty (30) percent or more of SMYS shall [may] not deflect the pipe more than three (3) degrees.

(b) A miter joint on steel pipe to be operated at [a] pressure that produces [a] hoop stress of less than thirty (30) percent but more than ten (10) percent of SMYS shall [may] not deflect the pipe more than twelve and one-half (12 1/2) degrees and shall [must] be a distance to one (1) pipe diameter or more away from any other miter joint, as measured from the crotch of each joint.

(c) A miter joint on steel pipe to be operated at [a] pressure that produces [a] hoop stress of ten (10) percent or less of SMYS shall [may] not deflect the pipe more than ninety (90) degrees.

(7) [(8)] Preparation for welding. Before beginning any welding, [the] welding surfaces shall [must] be clean and free of any material that may be detrimental to the weld, and the pipe or component shall [must] be aligned to provide the most favorable condition for depositing the root bead. This alignment shall [must] be preserved while the root bead is being deposited.

[(9) Preheating.]

[(a) Carbon steel that has a carbon content in excess of 0.32 percent (heat analysis) or a carbon equivalent (C + 1/4 Mn) of 0.65 percent (heat analysis) or less.]

[(b) Carbon steel that has a lower carbon content or carbon equivalent than the steels covered by paragraph (a) of this subsection must be preheated for welding when preheating will alleviate existing conditions that would limit the welding technique or tend to adversely affect the quality of the weld.]

[(c) When steel materials with different preheat temperatures are being preheated for welding, the higher temperature must be used.]

[(d) Preheat temperature must be monitored to ensure that the required preheat temperature is reached before, and maintained during, the welding operation.]

[(10) Stress relieving.]

[(a) Except as provided in paragraph (f) of this subsection, each weld on carbon steel that has a carbon content in excess of 0.32 percent (heat analysis) or a carbon equivalent (C + 1/4 Mn) of 0.65 percent (heat analysis) must be stress relieved as prescribed in Section VIII of the ASME Boiler and Pressure Vessel Code.]

[(b) Except as provided in paragraph (f) of this subsection, each weld on carbon steel that has a carbon content equivalent (C + 1/4 Mn) of less than 0.65 percent (heat analysis) must be thermally stress relieved when conditions exist which cool the weld at a rate detrimental to the quality of the weld.]

[(c) Except as provided in paragraph (f) of this subsection, each weld on carbon steel pipe with a wall thickness of more than one and one-fourth (1 1/4) inches must be stress relieved.]

[(d) When a weld connects pipe or components that are of different thickness, the wall thickness to be used in determining whether stress relieving is required under this section is:]

[1. In the case of pipe connections, the thicker of the two (2) pipes joined; or]

[2. In the case of branch connections, slip-on flanges, or socket weld fittings, the thickness of the pipe run or header.]

[(e) Each weld of different materials must be stress relieved, if either material requires stress relieving under this section.]

[(f) Notwithstanding paragraphs (a), (b), and (c) of this subsection, stress relieving is not required for the following:]

[1. A fillet or groove weld one-half (1/2) inch, or less, in size (leg) that attaches a connection two (2) inches, or less, in diameter; or]

[2. A fillet or groove weld three-eighths (3/8) inch, or less, in groove size that attaches a supporting member or other nonpressure attachment.]

[(g) Stress relieving required by this section must be performed at a temperature of at least 1,100 degrees Fahrenheit for carbon steels and at least 1,200 degrees Fahrenheit for ferritic alloy steels. When stress relieving a weld between steel materials with different stress relieving temperatures, the higher temperature must be used.]

[(h) When stress relieving, the temperature must be monitored to ensure that a uniform temperature is maintained and that the proper stress relieving cycle is accomplished.]

(8) [(11)] Inspection and test of welds.

(a) Visual inspection of welding shall [must] be conducted to insure that:

1. [The] Welding is performed in accordance with [the] welding procedure; and

2. [The] Weld is acceptable under paragraph (c) of this subsection.

(b) [The] Welds on a pipeline to be operated at [a] pressure that produces [a] hoop stress of twenty (20) percent or more of SMYS shall [must] be nondestructively tested in accordance with subsection (9) [(12)] of this section, except that welds that are visually inspected and approved by a qualified welding inspector need not be nondestructively tested if:

1. The pipe has a nominal diameter of less than six (6) inches; or

2. The pipeline is to be operated at [a] pressure that produces [a] hoop stress of less than forty (40) percent of SMYS, and [the] welds are so limited in number that nondestructive testing is impractical.

(c) [The] Acceptability of a weld that is nondestructively tested or visually inspected is determined according to the standards in Section 6 of API Standard 1104.

(9) [(12)] Nondestructive testing.

(a) Nondestructive testing of welds shall [must] be performed by any process, other than trepanning, that will clearly indicate defects that may affect the integrity of the weld.

(b) Nondestructive testing of welds shall [must] be performed:

1. In accordance with written procedures; and

2. By persons [who have been] trained and qualified in [the] established procedures and with [the] equipment employed in testing.

(c) Procedures shall [must] be established for [the] proper interpretation of each nondestructive test of a weld to ensure [the] acceptability of the weld under subsection (8) [(11)](c) of this section.

(d) When nondestructive testing is required under subsection (8) [(11)](b) of this section, the following percentages of each day's field butt welds, selected at random by the operator, shall [must] be nondestructively tested over their entire circumference:

1. In Class 1 locations, at least ten (10) percent.

2. In Class 2 locations, at least fifteen (15) percent.

3. In Class 3 and Class 4 locations, at crossings of major or navigable rivers, and offshore, and within railroad or public highway rights-of-way, including tunnels, bridges, and overhead road crossings, 100 percent unless impracticable, then at least [if practicable, but not less than] ninety (90) percent. Nondestructive testing shall be impracticable for each girth weld not tested.

4. At pipeline tie-ins [Within railroad or public highway rights-of-way, including tunnels, bridges and overhead road crossings, and at pipeline tie-ins,] 100 percent.

(e) Except for a welder whose work is isolated from the principal welding activity, a sample of each welder's work for each day shall [must] be nondestructively tested, when nondestructive testing is required under subsection (8) [(11)](b) of this section.

(f) When nondestructive testing is required under subsection (8) [(11)](b) of this section, each operator shall [must] retain, for the life of the pipeline, a record showing by milepost, engineering station, or by geographic feature, the number of girth welds made, [the] number nondestructively tested, [the] number rejected, and [the] disposition of [the] rejects.

(10) [(13)] Repair or removal of defects.

(a) Each weld that is unacceptable under subsection (8) [(11)](c) of this section shall [must] be removed or repaired. A weld shall [must] be removed if it has a crack that is more than eight (8) percent of the weld length.

(b) Each weld that is repaired shall [must] have the defect removed down to sound metal, and the segment to be repaired shall [must] be preheated if conditions exist which would adversely affect [the] quality of the weld repair. After repair, the segment of the weld that was repaired shall [must] be inspected to ensure its acceptability.

(c) Repair of a crack or [of] any defect in a previously repaired area shall [must] be in accordance with written weld repair procedures [that have been] qualified under subsection (2) [(3)] of this section. Repair procedures shall [must] provide that the minimum mechanical properties specified for the welding procedure used to make the original weld are met upon completion of the final weld repair.

Section 6. Joining of Materials other than by Welding. (1) Scope.

(a) This section prescribes minimum requirements for joining materials in pipelines, other than by welding.

(b) This section does not apply to joining during the manufacture of pipe or pipeline components.

(2) General.

(a) The pipeline shall [must] be designed and installed so that each joint will sustain [the] longitudinal pullout or thrust forces caused by contraction or expansion of [the] piping or by anticipated external or internal loading.

(b) Each joint shall [must] be made in accordance with written procedures [that have been] proven by test or experience to produce strong gastight joints.

(c) Each joint shall [must] be inspected to insure compliance with this subsection.

(3) Cast iron pipe.

(a) Each caulked bell and spigot joint in cast iron pipe shall [must] be sealed with mechanical leak clamps.

(b) Each mechanical joint in cast iron pipe shall [must] have a gasket made of [a] resilient material as the sealing medium. Each gasket shall [must] be suitably confined and retained under compression by a separate gland or follower ring.

(c) Cast iron pipe shall [may] not be joined by threaded joints or [.

(d) Cast iron pipe may not be joined] by brazing.

[(e) Each flange on a flanged joint in cast iron pipe must conform in dimensions and drilling to ANSI Standard B16.1 and be cast integrally with the pipe, valve, or fitting.]

(4) Ductile iron pipe.

[(a) Each mechanical joint in ductile iron pipe must conform in dimensions and drilling to ANSI Standard A21.52 and ANSI Standard A21.11.]

[(b)] Ductile iron pipe shall [may] not be jointed by threaded joints or by brazing.

[(c) Ductile iron pipe may not be joined by brazing.]

(5) Copper pipe.

[(a)] Copper pipe shall [may] not be threaded, except that copper pipe used for joining screw fittings or valves may be threaded if [the] wall thickness is equivalent to the comparable size of Schedule 40 or heavier [standard] wall pipe listed in Table C1 of ANSI B16.5 [, as defined in ANSI Standard B36.10].

[(b) Copper pipe shall be joined by using either a compression type coupling or a brazed or soldered lap joint. The fillet material used for brazing shall be a copper-phosphorus alloy or silver base alloy. Butt welds are not permissible for joining copper pipe or tubing. Connections using a copper or cast bronze service line tee or extension fitting sweat-brazed to the copper main, are recommended for service line connections to copper mains.]

(6) Plastic pipe.

(a) General. A plastic pipe joint [that is] joined by solvent cement, adhesive, or heat fusion shall [may] not be disturbed until it has properly set. Plastic pipe shall [may] not be joined by a threaded joint or miter joint.

(b) Solvent cement joints. Each solvent cement joint on plastic pipe shall [must] comply with the following:

1. [The] Mating surfaces of the joint shall [must] be clean, dry, and free of material which might be detrimental to the joint.

2. [The] Solvent cement shall [must] conform with ASTM Specification D 2513.

[3. The safety requirements of Appendix A of ASTM Specification D 2513 must be met.]

3. [4. The] Joint shall [may] not be heated to

accelerate [the] setting of the cement.

(c) Heat-fusion joints. Each heat-fusion joint on plastic pipe shall [must] comply with the following:

1. A butt heat-fusion joint shall [must] be joined by a device that holds the heater element square to the ends of the piping, compresses the heated ends together, and holds the pipe in proper alignment while the plastic hardens.

2. A socket heat-fusion joint shall [must] be joined by a device that heats [the] mating surfaces of the joint uniformly and simultaneously to essentially the same temperature.

3. Heat shall [may] not be applied with a torch or other open flame.

(d) Adhesive joints. Each adhesive joint on plastic pipe shall [must] comply with the following:

1. [The] Adhesive shall [must] conform to ASTM Specification D 2517.

2. [The] Materials and adhesive shall [must] be compatible with each other.

(e) Mechanical joints. Each compression type mechanical joint on plastic pipe shall [must] comply with the following:

1. [The] Gasket material in the coupling shall [must] be compatible with the plastic.

2. A rigid internal tubular stiffener, other than a split tubular stiffener, shall [must] be used in conjunction with the coupling.

(7) Plastic pipe; qualifying joining procedures.

(a) Heat fusion, solvent cement, and adhesive joints. Before any written procedure established under subsection (2)(b) of this section is used for making plastic pipe joints by a heat fusion, solvent cement, or adhesive method, that [the] procedure shall [must] be qualified by subjecting specimen joints made according to the procedure to the following tests:

1. [The] Burst test requirements of:

a. If [In the case of] thermoplastic pipe, Paragraph 8.6 (Sustained Pressure Test) or Paragraph 8.7 (Minimum Hydrostatic Burst Pressure) of ASTM D 2513; or

b. If [In the case of] thermosetting plastic pipe, Paragraph 8.5 (Minimum Hydrostatic Burst Pressure) or Paragraph 8.9 (Sustained Static Pressure Test) of ASTM D 2 [1]517;

2. For procedures intended for lateral pipe connections, subject a specimen joint made from pipe sections joined at right angles according to the procedure to a force on the lateral pipe until failure occurs in the specimen. If failure initiates outside the joint area, the procedure qualifies for use; and

3. For procedures intended for nonlateral pipe connections, follow the tensile test requirements of ASTM D 638, except that the test may be conducted at ambient temperature and humidity. If the specimen elongates no less than twenty-five (25) percent, or failure initiates outside the joint area, the procedure qualifies for use.

(b) Mechanical joints. Before any written procedure established under subsection (2)(b) of this section is used for making mechanical plastic pipe joints [that are] designed to withstand tensile forces, the procedure shall [must] be qualified by subjecting five (5) specimen joints made according to the procedure to the following tensile test:

1. Use an apparatus for the test as specified in ASTM D 638-77a (except for conditioning).

2. [The] Specimen shall [must] be of such length that [the] distance between the grips of the apparatus and the end of the stiffener does not affect [the] joint strength.

3. [The] Speed of testing is five (5) millimeters [mm] (two-tenths (.20) inches) per minute, plus or minus twenty-five (25) percent.

4. Pipe specimens less than 102 millimeters [mm] (four (4) inches) in diameter are qualified if [the] pipe yields to an elongation of no less than twenty-five (25) percent or failure initiates outside the joint area.

5. Pipe specimens 102 millimeters [mm] (four (4) inches) and larger in diameter shall be pulled until the pipe is subjected to [a] tensile stress equal to or greater than [the] maximum thermal stress that would be produced by a temperature change of fifty-five (55) [thirty-eight (38)] degrees Centigrade (100°F) or until the pipe is pulled from the fitting. If the pipe pulls from the fitting, the lowest value of the five (5) test results or the manufacturer's rating, whichever is lower, shall [must] be used in [the] design calculations for stress.

6. Each specimen that fails at the grips shall [must] be retested using new pipe.

7. Results obtained pertain only to the specific outside diameter, and material of [the] pipe tested, except that testing of [a] heavier wall pipe may be used to qualify pipe of the same material but with [a] lesser wall thickness.

(c) A copy of each written procedure being used for joining plastic pipe shall [must] be available to [the] persons making and inspecting joints.

(d) Pipe or fittings manufactured before July 1, 1980, may be used in accordance with procedures that the manufacturer certifies will produce a joint as strong as the pipe.

(8) Plastic pipe; qualifying persons to make joints.

(a) No person shall [may] make a plastic pipe joint unless that person has been qualified under the applicable joining procedure by:

1. Appropriate training or experience in [the] use of the procedure; and

2. Making a specimen joint from pipe sections joined according to the procedure that passes the inspection and testing set forth in paragraph (b) of this subsection.

(b) [The] Specimen joint shall [must] be:

1. Visually examined during and after assembly or joining and found to have the same appearance as a joint or photograph of a joint that is acceptable under the procedure; and

2. If [In the case of] a heat fusion, solvent cement, or adhesive joint:

a. Tested under any one (1) of the test methods listed in subsection (7)(a) of this section applicable to the type of joint and material being tested;

b. Examined by ultrasonic inspection and found not to contain flaws that would cause failure; or

c. Cut into at least three (3) longitudinal straps, each of which is:

(i) Visually examined and found not to contain voids or discontinuities on [the] cut surface of the joint area; and

(ii) Deformed by bending, torque, or impact, and if failure occurs, it shall [must] not initiate in the joint area.

(iii) A person shall [must] be requalified under an applicable procedure, if during any twelve (12) month period that person:

A. Does not make any joints under that procedure; or

B. Has made three (3) joints or three (3) percent of the joints [made], whichever is greater, under that procedure, that are found unacceptable by testing under Section 11(7) of this regulation.

(d) Each operator shall establish a method to determine that each person making joints in plastic pipelines in his system is qualified in accordance with this section [of this regulation].

(9) Plastic pipe; inspection of joints. No person shall [may] carry out the inspection of joints in plastic pipes required by subsections (2)(c) and (8)(b) of this section unless that person has been qualified by appropriate training or experience in evaluating the acceptability of plastic pipe joints made under the applicable joining procedure.

Section 7. General Construction Requirements for Transmission Lines and Mains. (1) Scope. This section prescribes minimum requirements for constructing transmission lines and mains.

(2) Compliance with specifications or standards. Each transmission line or main shall [must] be constructed in accordance with comprehensive written specifications or standards [that are] consistent with this section [of this regulation].

(3) Reports and records of proposed construction:

(a) At least thirty (30) days prior to [the] construction or major reconstruction of any gas pipeline intended to be subjected to pressure in excess of 100 psig, or twenty (20) percent of minimum yield strength, whichever is lower, and after receipt from the commission of a certificate of public convenience and necessity for such construction if required, the utility shall file a report [shall be filed] with the commission setting forth the specifications for such pipeline and the maximum allowable operating pressure.

[(b) Every gas utility shall, on the 15th day of each month, submit a report to the commission setting forth the progress of such construction or major reconstruction as of the end of the preceding month.]

(b) [(c)] Before any gas pipeline or main is placed in operation intended to be subjected to pressures in excess of 100 psig, or twenty (20) percent of specified minimum yield strength, whichever is lower, a report shall be filed with the commission certifying the maximum pressure to which the line is intended to be subject and also certifying that the pipeline has been constructed and testing in accordance with the requirements of this regulation. [the rules herein prescribed, and] A further report shall be filed within sixty (60) days thereafter including the results of all tests made pursuant to this section [thereto]. No gas pipeline or main shall be operated at pressures in excess of the pressure for which it was certified to the commission.

(d) [The] Responsibility for [the] maintenance of necessary records to establish that compliance with [the] rules and regulations has been accomplished rests with the utility. Such records shall be available for inspection at all times by [the] commission [or the commission's] staff.

(4) Inspection: general. Each transmission line or main shall [must] be inspected to ensure that it is constructed in accordance with this section. The inspector shall have authority to order [the] removal and replacement of any section of pipe and fittings that fail to meet the standards of this regulation.

(5) Inspection of materials. Each length of pipe and each other component shall [must] be visually inspected at [the] site of installation to ensure that it has not sustained any visually determinable damage that could impair its serviceability. Plastic pipe and tubing shall be adequately supported during storage. [and] Thermoplastic pipe, tubing and fittings shall be protected from exposure to direct sun rays if the pipe is to remain exposed for twelve (12) months or longer unless written warranty of the manufacturer states that such protection is not necessary. However, if the manufacturer specifies that the pipe has been manufactured with a minimum of two (2) percent or more carbon black content to prevent ultraviolet degradation, the pipe may be exposed to sun rays for up to thirty-six (36) months.

(6) Repair of steel pipe.

(a) Each imperfection or damage that impairs the serviceability of a length of steel pipe shall [must] be repaired or removed. If [a] repair is made by grinding, [the] remaining wall thickness shall [must] at least be equal to either:

1. [The] Minimum thickness required by the tolerance in the specification to which the pipe was manufactured; or

2. [The] Nominal wall thickness required for the design pressure of the pipeline.

(b) Each of the following dents shall [must] be removed from steel pipe to be operated at [a] pressure that produces [a] hoop stress of twenty (20) percent, or more, of SMYS:

1. A dent that contains a stress concentrator such as a scratch, gouge, groove, or arc burn.

2. A dent that affects the longitudinal weld or a circumferential weld.

3. In pipe to be operated at [a] pressure that produces [a] hoop stress of forty (40) percent or more of SYMS, a dent that has a depth of:

a. More than one-quarter (1/4) inch in pipe twelve and three-fourths (12 3/4) inches or less in outer diameter; or

b. More than two (2) percent of the nominal pipe diameter in pipe over twelve and three-fourths (12 3/4) inches is outer diameter.

For [the] purposes of this subsection a "dent" is a depression that produces [a] gross disturbance in [the] curvature of the pipe wall without reducing [the] pipe-wall thickness. [The] Depth of a dent is measured as the gap between the lowest point of the dent and a promulgation of the pipe's original contour [of the pipe].

(c) Each arc burn on steel pipe to be operated at [a] pressure that produces [a] hoop stress of forty (40) percent, or more, of SMYS shall [must] be repaired or removed. If [a] repair is made by grinding, the arc burn shall [must] be completely removed, and [the] remaining wall thickness shall [must] be at least equal to either:

1. [The] Minimum wall thickness required by the tolerances in the specification to which the pipe was manufactured; or

2. [The] Nominal wall thickness required for the design pressure of the pipeline.

(d) A gouge, groove, arc burn, or dent shall

[may] not be repaired by insert patching or by pounding out.

(e) Each gouge, groove, arc burn, or dent [that is] removed from a length of pipe shall [must] be removed by cutting out the damaged portion as a cylinder.

(7) Repair of plastic pipe. Each imperfection or damage that would impair [the] serviceability of plastic pipe shall [must] be repaired by a patching saddle or removed.

(8) Bends and elbows.

(a) Each field bend in steel pipe, other than a wrinkle bend made in accordance with subsection (9) of this section shall [must] comply with the following:

1. A bend shall [must] not impair [the] serviceability of the pipe.

[2. For pipe more than four (4) inches in nominal diameter, the difference between the maximum and minimum diameter at a bend must not be more than two and one-half (2 1/2) percent of the nominal diameter.]

2. [3.] Each bend shall [must] have a smooth contour and be free from buckling, cracks, or any other mechanical damage.

3. [4.] On pipe containing a longitudinal weld, the longitudinal weld shall [must] be as near as practicable to the neutral axis of the bend unless:

a. The bend is made with an internal bending mandrel; or

b. The pipe is twelve (12) inches or less in outside diameter or has a diameter to wall thickness ratio less than seventy (70).

(b) Each circumferential weld of steel pipe [which is] located where [the] stress during bending caused [a] permanent deformation in the pipe shall [must] be nondestructively tested either before or after the bending process.

(c) Wrought-steel welding elbows and transverse segments of these elbows shall [may] not be used for changes in direction on steel pipe [that is] two (2) inches or more in diameter unless the arc length, as measured along the crotch, is at least one (1) inch.

(9) Wrinkle bends in steel pipe.

(a) A wrinkle bend shall [may] not be made on steel pipe to be operated at [a] pressure that produces [a] hoop stress of thirty (30) percent, or more, of SYMS.

(b) Each wrinkle bend on steel pipe shall [must] comply with the following:

1. The bend shall [must] not have any sharp kinks.

2. When measured along the crotch of the bend, [the] wrinkles shall [must] be a distance of at least one (1) pipe diameter.

3. On pipe sixteen (16) inches or larger in diameter, the bend shall [may] not have a deflection of more than one and one-half (1 1/2) degrees for each wrinkle.

4. On pipe containing a longitudinal weld, the longitudinal seam shall [must] be as near as practicable to the neutral axis of the bend.

(10) Protection from hazards.

(a) Each transmission line or main shall [must] be protected from washouts, floods, unstable soil, landslides, or other hazards that may cause the pipeline to move or to sustain abnormal loads.

(b) Each aboveground transmission line or main, not in inland navigable water areas, shall [must] be protected from accidental damage by vehicular traffic or other similar causes, either by being placed at a safe distance from [the] traffic or by installing barricades.

(c) Pipelines, including pipe risers, on each platform located in inland navigable waters shall [must] be protected from accidental damage by vessels.

(11) Installation of pipe in a ditch.

(a) When installed in a ditch, each transmission line [that is] to be operated at [a] pressure producing [a] hoop stress of twenty (20) percent or more of SMYS shall [must] be installed so that the pipe adequately fits the ditch [so as] to minimize stresses and protect [the] pipe coating from damage.

(b) When a ditch for a transmission line or main is backfilled, it shall [must] be backfilled in a manner that:

1. Provides firm support under the pipe; and

2. Prevents damage to [the] pipe and pipe coating from equipment or [from the] backfill material.

(12) Installation of plastic main [pipe].

(a) Plastic pipe shall [must] be installed below ground level and shall conform to [the] applicable provisions of subsection (15) of this section except that plastic [pipelines and] mains shall be installed with [a] minimum cover of twenty-four (24) inches at all stress levels unless encased or otherwise protected.

(b) Plastic pipe [that is] installed in a vault or any other below grade enclosure shall [must] be completely encased in gastight metal pipe and fittings [that are] adequately protected from corrosion.

(c) Plastic pipe shall [must] be installed [so as] to minimize shear or tensile stresses.

(d) Thermoplastic pipe [that is] not encased shall [must] have [a] minimum wall thickness of 0.090 inches, except that pipe with an outside diameter of 0.875 inches or less may have [a] minimum wall thickness of 0.062 inches.

(e) Plastic pipe [that is] not encased shall [must] have an electrically conductive wire or other means of located the pipe while it is underground.

(f) Plastic pipe [that is] being encased shall [must] be inserted into [the] casing pipe in a manner that will protect the plastic. The leading end of the plastic shall [must] be closed before [the] insertion.

(13) Casing. Each casing used on a transmission line or main under a railroad or highway shall [must] comply with the following:

(a) [The] Casing shall [must] be designed to withstand [the] superimposed loads.

(b) If there is a possibility of water entering the casing, [the] ends shall [must] be sealed.

(c) If [the] ends of an unvented casing are sealed, and the sealing is strong enough to retain [the] maximum allowable operating pressure of the pipe, the casing shall [must] be designed to hold this pressure at a stress level of not more than seventy-two (72) percent of SMYS.

(d) If vents are installed on a casing, [the] vents shall [must] be protected from [the] weather to prevent water from entering the casing.

(14) Underground clearance.

(a) Each transmission line shall [must] be installed with at least twelve (12) inches of clearance from any other underground structure not associated with the transmission line. If this clearance cannot be attained, The transmission line shall [must] be protected from

damage that might result from [the] proximity to [of the] other structures.

(b) Each main shall [must] be installed with enough clearance from any other underground structure to allow proper maintenance and to protect against damage that might result from proximity to other structures.

(c) In addition to meeting the requirements of paragraph (a) or (b) of this subsection, each plastic transmission line or main shall [must] be installed with sufficient clearance, or shall [must] be insulated, from any source of heat [so as] to prevent [the] heat from impairing [the] serviceability of the pipe.

(d) Each pipe-type or bottle type holder shall [must] be installed with [a] minimum clearance from any other holder as prescribed in Section 4(19) [(18)](b) of this regulation.

(15) Cover.

(a) Except as provided in paragraphs (c) and (d) of this subsection, each buried transmission line shall [must] be installed with minimum cover as follows:

Location	Normal Soil (inches)	Consolidated Rock (inches)
Class 1 locations	30	18
Class 2, 3 and 4 locations	36	24
Drainage ditches of public roads and railroad crossings	36	24

(b) Except as provided in paragraphs (c) and (d) of this subsection, each buried main shall [must] be installed with at least twenty-four (24) inches of cover.

(c) Where an underground structure prevents [the] installation of a transmission line or main with [the] minimum cover, the transmission line or main may be installed with less cover if it is provided with additional protection to withstand anticipated external loads.

(d) All pipe [which is] installed in a navigable river or stream shall [must] have [a] minimum cover of forty-eight (48) inches in soil or twenty-four (24) inches in consolidated rock. However, less than [the] minimum cover is permitted in accordance with paragraph (c) of this subsection.

Section 8. Gas Measurement. (1) Scope. This section prescribes minimum requirements for [the] measurement of gas, [the] accuracy of [the] measuring instruments (meters), meter testing facilities and periodic testing of meters.

(2) Method of measuring service.

(a) All gas sold by a utility and all gas consumed by a utility in the State of Kentucky shall be metered through approved type meters except in cases of emergency or when otherwise authorized by the commission. Each meter shall bear an identifying number. When gas is sold at high pressures or large volumes, the contract or rate schedule shall specify [the] standards used to calculate [the] gas volume. Prepayment meters shall not be used unless [except where] there is no other satisfactory method of collecting payment for [the] services rendered.

(b) All gas delivered as compensation for leases, rights-of-way, or for other reasons, not charged [for] at the utility's regular schedule of charges, shall be metered and a record kept of each transaction [thereof]. All meters and regulators installed to measure [for the purpose of measuring] gas and to regulate [for the purpose of regulating the] pressure of gas shall be under the control of the utility and subject to the rules of the utility and [the rules] of the commission.

(c) The utility shall make no charge for furnishing and installing any meter or appurtenance necessary to measure [the] gas furnished, except by mutual agreement as approved by the commission in special cases or except where duplicate or check meters are requested by the customer.

(d) Each gas utility shall adopt a standard method of meter and service line installation insofar as practicable. These [Such] methods shall be set out with a written description and[/or] with drawings as [to the extent] necessary for [a] clear understanding of the requirements, all of which shall be filed with the commission. Copies of these standard methods shall be made available to prospective customers, [and] contractors or others engaged in [the business of] installing pipe for gas utilization. All meters shall be set in place by the utility.

(e) Each customer shall be metered separately except in cases of multioccupants under the same roof sharing [with] a common entrance or [with] an enclosure where it is unreasonable or uneconomical to measure each unit separately.

(f) The utility may render temporary service to a customer and may require the customer to bear all [of the] costs of installing and removing [the] service in excess of any salvage realized. In this respect, [a] temporary service shall be considered to be service that is not required or used for more than one (1) year.

(3) Accuracy requirements for meters. All tests to determine [the] accuracy of registration of any gas meters shall be made by a qualified meter tester and with suitable facilities.

(a) Diaphragm displacement meters:

1. Before being installed for [the] use by [of] any customer, every diaphragm displacement gas meter, whether new, repaired or removed from service for any cause shall be in good working condition and shall be adjusted to be correct to within one-half (1/2) of one (1) percent, plus or minus when passing gas at approximately twenty (20) percent and 100 percent of the rated capacity of the meter as specified by the manufacturer based on five-tenths (0.5) inch water column differential. A pilot test or quartering test to determine that the meter will register at one-half (1/2) of one (1) percent of the rated capacity shall be made before placing meters in service.

2. Meters removed from service for periodic testing shall be tested for accuracy as soon as practical after removal. An "as found" test shall be made at a flow-rate of approximately twenty (20) percent and 100 percent of the rated capacity of the meter based on five-tenths (0.5) inch water column differential and results of these [said] tests algebraically averaged to determine [the] accuracy. If [the] error is less than two (2) percent this shall be reported as the "as found" test. If [the] error is more than two (2) percent, two (2) additional tests shall be made at twenty (20) percent and 100 percent,

and the average of these three (3) tests shall be reported as the "as found" test. The three (3) test procedures shall apply to any customer request test, complaint test, or bill adjustment made on the basis of the meter.

3. Meters of good working condition that are removed from service for reasons other than periodic, customer or commission request tests shall be tested as soon as practicable after removal if [the] elapsed time since the last test exceeds fifty (50) percent of the periodic test period for those meters.

(b) Other than diaphragm displacement meters.

1. All meters other than diaphragm displacement meters shall be tested at approved intervals by the utility meter tester using flow provers or other approved methods either in the shop or at the [on] location of use at the utility's option [of the utility] and with the commission's approval [of the commission] of facilities and methods used. [The] Accuracy of these meters shall be maintained as near 100 percent as possible. Test ranges and procedures shall be as prescribed in adopted standards or approved by the commission.

2. All meter installations shall be inspected for proper design and construction and all instruments, regulators and valves used in conjunction with [the] installation shall be tested for desired operation and accuracy before being placed in service. This inspection shall be made by a qualified [competent] person. Test data as to conditions found, corrected if in error, and conditions as left shall be made available for inspection by [the] commission staff. Subsequent test results shall be a portion of regular meter test reports submitted to the commission by the utility.

(4) Meter testing facilities and equipment.

(a) Meter shop.

1. Each utility, unless specifically excepted [excused] by the commission, shall maintain a meter shop to [for the purpose of] inspect[ing], test[ing] and repair[ing] meters. The shop shall be open for inspection by [authorized representatives of the] commission staff at all reasonable times. [, and the] Facilities and equipment, as well as [the] methods of measurement and testing employed, shall be subject to [the] approval of the commission.

2. The meter shop shall consist of a repair room or shop proper and a proving room. The proving room shall be designed so that [the] meters and meter testing apparatus are protected from excessive changes in temperature and other disturbing factors. The proving room or the entire meter shop shall be air conditioned if necessary to achieve satisfactory temperature control.

3. The proving room shall be well lighted and preferably not on an outside wall of the building. Temperatures within the proving room shall not vary more than two (2) degrees Fahrenheit per hour nor more than five (5) degrees Fahrenheit over a twenty-four (24) hour period.

(b) Working standards.

1. Each utility, unless specifically excepted [excused] by the commission, shall own and make proper provision to operate at least one (1) approved belltype meter prover, preferably of ten (10) cubic feet capacity, but in no case of less than five (5) cubic feet capacity. The prover shall be equipped with suitable thermometers and other necessary accessories. This [, and such] equipment shall be maintained in proper condition and adjustment so that it shall be capable of determining the accuracy of any service meter, practical to [of] test by it, to within one-half (1/2) of one (1) percent plus or minus.

2. The prover shall be accurate to within three-tenths (0.3) of one (1) percent at each point used in testing meters.

3. The prover shall not be located near any radiator, heater, steam pipe, or hot or cold air duct. Direct sunlight shall not be allowed to fall on the prover or the meters under test.

4. During conditions of satisfactory operation air [the] temperature [of the air] in the prover shall be within one (1) degree Fahrenheit of the ambient temperature, and oil [the] temperature [of the oil] in the prover shall not differ from the temperature of [the] ambient air by more than one (1) degree Fahrenheit.

5. [The] Meters to be tested shall be stored in such manner that [the] temperature of the meters is substantially the same as [the] temperature of the prover. [In order] To achieve this, [the] meters shall be placed in the environment of the prover for a minimum of five (5) hours.

(c) All testing instruments and other equipment certified by the commission shall [at all times] be accompanied at all times by a certificate showing [giving] the date when it was last tested and adjusted. The certificate must be signed by a proper authority designated by the commission. A tag referring to such certificate may be attached to the instruments when practicable. These certificates, when superseded, shall be kept on file by [in the office of] the utility.

(d) Sixty (60) days after the effective date of a commission order granting convenience and necessity for a new utility, that [such] utility shall advise the commission in writing as to [the] kind and amount of testing equipment available.

(5) Periodic tests.

(a) Periodic tests of all meters shall be made according to the following schedule based on rated capacities. Rated meter capacity is defined as the capacity of the meter at five-tenths (0.5) of one (1) inch water column differential for diaphragm meters and as specified by the manufacturer for all other meters.

1. [All] Positive-displacement meters, with [a] rated capacity up to and including 500 cubic feet per hour, shall be tested at least once every ten (10) years.

2. [All] Positive-displacement meters, with [a] rated capacity above 500 cubic feet per hour, up to and including 1,500 cubic feet per hour, shall be tested at least once every five (5) years.

3. [All] Positive-displacement meters above 1,500 cubic feet per hour shall be tested at least once every year.

4. [All] Orifice meters shall have their recording gauges tested at least once every six (6) months. [and the] Orifice size and condition shall be checked at the required meter test interval.

5. [All] Auxiliary measurement devices such as pressure, temperature, volume, load demand and remote reading devices shall be tested at the required meter test interval.

[(b) Meters not in compliance with the

periodic test requirements.]

[1. All meters in service on and after the effective date of this regulation for which there is no record of test within the time period specified by this subsection shall be tested as soon thereafter as circumstances will permit. Meters with the greatest time elapsed since the last test shall be tested first.]

[2. Subsequent to the effective date of this regulation, the test of meters discussed in paragraph 1 of this subsection shall be completed within one-half (1/2) of the period required for tests of meters of that class and rating as specified in this subsection.]

(b) [(c)] Whenever the number of meters of any type which register in error beyond the limits specified in these rules is deemed [to be] excessive, [then] this type shall be tested with such additional frequency as the commission may direct.

(c) A utility desiring to adopt a scientific sample meter test plan for positive displacement meters in accordance with parameters established by the commission shall submit its application to the commission for approval. Upon approval, the sample testing plan may be followed in lieu of tests prescribed in subsections (3) and (5) of this section and 807 KAR 5:006, Section 13(1).

(6) Measuring production and shipment into and out of the state.

(a) The utility shall measure and record the quantity of all gas produced and purchased by it [a utility] in Kentucky [shall be measured and the quantity thereof recorded].

(b) The utility shall measure and record the quantity of all gas piped out of or brought into the state of Kentucky [by a utility shall be measured and quantity thereof recorded].

Section 9. Customer Meters, Service Regulators, and Service Lines. (1) Scope. This section prescribes minimum requirements for installing customer meters, service regulators, service lines, service line valves, and service line connections to mains.

(2) Customer meters and regulators: location.

(a) Each meter and service regulator, whether inside or outside of a building, shall [must] be installed in a readily accessible location and [be] protected from corrosion and other damage.

(b) Meters shall be easily accessible for reading, testing and making necessary adjustments and repairs, and where indoor type meters are necessary they shall be installed in a clean, dry, safe, convenient place. Unless absolutely unavoidable, meters shall not be installed in any location where [the] visits of the meter reader or tester will cause annoyance to the customer or [a] severe inconvenience to the utility. Existing meters [which are] located in places not permitted by rule shall be relocated by the customer or owner to an approved position.

(c) Proper provision shall be made by the customer for [the] installation of the utility's meter. At least six (6) inches clear space shall be available, if possible, on all sides of the meter and not less than thirty (30) inches in front of it. When installed within a building, a meter shall [must] be located in a ventilated place and not less than three (3) feet from any source of ignition or any source of heat which might damage the meter.

(d) When a number of meters are placed in the same location, each meter shall be tagged or marked to indicate the customer served by it and such identification shall be preserved and maintained by the owner of the premises served.

(e) When the distance between the utility's main and [the] nearest point of consumption is more than 150 feet, the meter shall be located as near to the utility's main as may be practicable. This provision shall apply when any [whether or not all or] part of the service line has [shall have] been constructed by either the customer or utility.

(f) When a customer is [s are] served from a pipeline operating in excess of sixty (60) psig [high pressure lines,] the meters, [regulator or] regulators and safety devices shall be located as near to the utility's pipeline [main] as practicable.

(g) Each service regulator installed within a building shall [must] be located as near as practical to [the] point of service line entrance.

(h) Where feasible, the upstream regulator in a series shall [must] be located outside the building unless it is located in a separate metering or regulating building.

(3) Customer meters and regulators: protection from damage.

(a) Protection from vacuum or back pressure. If the customer's equipment might create either a vacuum or a back pressure, a device shall [must] be installed to protect the system.

(b) Service regulator vents and relief vents. Service regulator vents and relief vents shall terminate outdoors, and the outdoor terminal shall be: [The outside terminal of each service regulator vent and relief vent must:]

1. [Be] Rain and insect resistant;

2. [Be] Located at a place where gas from the vent can escape freely into the atmosphere and away from any opening into the building; and

3. [Be] Protected from damage caused by submergence in areas where flooding may occur.

(c) Pits and vaults. Each pit or vault that houses a customer meter or regulator at a place where vehicular traffic is anticipated shall [must] be able to support that traffic.

(4) Customer meter and regulators: installation.

(a) Each meter and each regulator shall [must] be installed [so as] to minimize anticipated stresses upon the connecting piping and the meter.

(b) [The] Use of all thread (close) nipples is prohibited.

(c) Connections made of lead or other easily damaged material shall [may] not be used in [the] installation of meters or regulators.

(d) Each regulator that might release gas in its operation shall [must] be vented to the outside atmosphere and shall have a vent pipe sized no smaller than the manufacturer's vent connection built into the regulator.

(5) Customer meter installation: operation pressure.

(a) A meter shall [may] not be used at [a] pressure [that is] more than sixty-seven (67) percent of the manufacturer's shell test pressure.

(b) Each newly installed meter manufactured after November 12, 1970, shall [must] have been tested to a minimum of ten (10) psig.

(c) A rebuilt or repaired tinned steel case meter shall [may] not be used at [a] pressure [that is] more than fifty (50) percent of the pressure used to test the meter after rebuilding

or repairing.

(6) Service lines: installation.

(a) Depth. Each buried service line shall [must] be installed with at least twelve (12) inches of cover in private property and at least eighteen (18) inches of cover in streets and roads. However, where an underground structure prevents installation at those depths, the service line shall [must] be able to withstand any anticipated external load.

(b) Support and backfill. Each service line shall [must] be properly supported on undisturbed or well-compacted soil, and material used for backfill shall [must] be free of materials that could damage the pipe or its coating.

(c) Grading for drainage. Where condensation in the gas might cause interruption in [the] gas supply to the customer, the service line shall [must] be graded [so as] to drain into the main or into drips at [the] low points in the service line.

(d) Protection against piping strain and external loading. Each service line shall [must] be installed [so as] to minimize anticipated piping strain and external loading.

(e) Installation of service lines into buildings. Each underground service line installed below grade through the outer foundation wall of a building shall [must]:

1. If [In the case of] a metal service line, be protected against corrosion;

2. If [In the case of] a plastic service line, be protected from shearing action and backfill settlement; and

3. Be sealed at the foundation wall to prevent leakage into the building.

(f) Installation of service lines under buildings. Where an underground service line is installed under a building:

1. It shall [must] be encased in a gastight conduit;

2. The conduit and the service line shall [must], if the service line supplies the building it underlies, extend into a normally usable and accessible part of the building; and

3. The space between the conduit and [the] service line shall [must] be sealed to prevent gas leakage into the building. [and,] If the conduit is sealed at both ends, a vent line from the annular space shall [must] extend to a point where gas would not be a hazard and extend above grade, terminating in a rain and insect resistant fitting.

(g) Joining of service lines. All underground steel service lines shall be joined by threaded and coupled joints, compression type fittings, or by qualified welding procedures and operators.

(h) When coated steel pipe is to be installed as a service line in a bore, care shall be exercised to prevent damage to the coating during installation. For all installations to be made by boring, driving or similar methods or in a rocky type soil, the following practices or their equivalents are recommended:

1. [The] Coated pipe should not be used as the bore pipe or drive pipe and left in the ground as part of the service line. It is preferable to make such installations by first making an average bore, removing the pipe used for boring and then inserting the coated pipe.

2. Coated steel pipe preferably should not be inserted through a bore in exceptionally rocky soil when there is a likelihood of damage to the coating resulting from [the] insertion.

3. [The] Recommendations in subparagraphs 1 and 2 of this subsection do not apply where coated pipe is installed under conditions where the coating is not likely to be damaged, such as in sandy soil.

(7) Service line: valve requirements.

(a) Each service line shall [must] have a service-line valve that meets [the] applicable requirements of Sections 2 and 4 of this regulation. A valve incorporated in a meter bar, that allows the meter to be bypassed, shall [may] not be used as a service-line valve.

(b) A soft seal service-line valve shall [may] not be used if its ability to control [the] flow of gas could be adversely affected by exposure to anticipated heat.

(c) Each service-line valve on a high-pressure service line, installed above ground or in an area where [the] blowing gas would be hazardous, shall [must] be designed and constructed to minimize the possibility of [the] removal of the valve core [of the valve] with other than specialized tools.

(8) Service lines: location of valves.

(a) Relation to regulator or meter. Each service-line valve shall [must] be installed upstream of the regulator or, if there is not regulator, upstream of the meter.

(b) Outside valves. Each service line shall [must] have a shutoff valve in a readily accessible location that, if feasible, is outside of the building.

(c) Underground valves. Each underground service-line valve shall [must] be located in a covered, durable curb box or standpipe that allows ready operation of the valve. The curb box shall be supported independently of the service lines.

(9) Service lines general requirements for connections to main piping.

(a) Location. Each service-line connection to a main shall [must] be located at the top of the main, or, if [that is] not practical, at the side of the main, unless a suitable protective device is installed to minimize [the] possibility of dust and moisture being carried from the main into the service line.

(b) Compression-type connection to main. Each compression-type service line to main connection shall [must]:

1. Be designed and installed to effectively sustain [the] longitudinal pullout or thrust forces caused by contraction or expansion of [the] piping, or by anticipated external or internal loading; and

2. If gaskets are used in connecting the service line to the main connection fitting, [have] gaskets shall be [that are] compatible with the kind of gas in the system.

(10) Service lines: connection to cast iron or ductile iron mains.

(a) Each service line connected to a cast iron or ductile iron main shall [must] be connected by a mechanical clamp, by drilling and tapping the main, or by another method meeting [the] requirements of Section 6(2) of this regulation.

(b) If a threaded tap is being inserted, the requirements of Section 4(6)(b) and (c) of this regulation shall [must] also be met.

(11) Service lines: steel. Each steel service line to be operated at less than 100 psig shall [must] be constructed of pipe designed for a minimum of 100 psig.

(12) Service lines: cast iron and ductile iron. Cast or ductile iron pipe shall [may] not

be installed for service lines.

(13) Service lines: plastic.

(a) Each plastic service line outside a building shall [must] be installed below ground level, except that it may terminate above ground and outside the building, if:

1. The above ground part of the plastic service line is protected against deterioration and external damage; and

2. The plastic service line is not used to support external loads.

(b) Each plastic service line inside a building shall [must] be protected against external damage.

(14) Service lines: copper. Each copper service line installed within a building shall [must] be protected against external damage.

(15) New service lines not in use. Each service line [that is] not placed in service upon completion of installation shall [must] comply with one (1) of the following until the customer is supplied with gas:

(a) The valve that is closed to prevent [the] flow of gas to the customer shall [must] be provided with a locking device or other means designed to prevent [the] opening of the valve by persons other than those authorized by the operator.

(b) A mechanical device or fitting that will prevent [the] flow of gas shall [must] be installed in the service line or in the meter assembly.

(c) The customer's piping shall [must] be physically disconnected from the gas supply, and the open pipe ends sealed.

(16) Extension of services.

(a) Normal extension. An extension of 100 feet or less shall be made by a utility to an existing distribution main without charge for a prospective customer who shall apply for and contract to use service for one (1) year or more and provides guarantee for such service.

(b) Other extensions.

1. When an extension of the utility's main to serve an applicant or group of applicants amounts to more than 100 feet per customer, the utility shall [may], if not inconsistent with its filed tariff, require the total cost of the excessive footage over 100 feet per customer to be deposited with the utility by the applicant(s) [or the applicants], based on [the] average estimated cost per foot of the total extension.

2. Each customer receiving service under such extension will be reimbursed under the following plan: each year for a refund period of not less than ten (10) years, [which, for the purpose of this rule, shall be the refund period,] the utility shall refund to the customer(s) [or customers] who paid for the excessive footage, the cost of [the] 100 feet of [the] extension in place for each additional customer connected during the year whose service line is directly connected to the extension installed, and not to extensions or laterals therefrom. [, but in no case shall the] Total amount refunded shall not exceed the amount paid to the utility. After the end of the refund period, no refund shall [will] be required [to be made].

(c) An applicant desiring an extension to a proposed real estate subdivision may be required to pay all [the entire] costs of the extension. Each year for a refund period of not less than ten (10) years, the utility shall refund to the applicant who paid for the extension a sum equivalent to the cost of [the] 100 feet of [the] extension installed for each additional customer connected during the year. [but in no case shall the] Total amount refunded shall not exceed the amount paid to the utility. After the end of the refund period from the completion of the extension, no refund shall [will] be required [to be made].

(d) Nothing contained herein shall be construed to prohibit the utility from making extensions under different arrangements provided such arrangements have been approved by the commission.

(e) Nothing contained herein shall be construed [as] to prohibit a utility from making, at its expense, greater extensions than herein prescribed, [should its judgment so dictate,] provided the same free extensions are made to other customers under similar conditions.

(f) Upon complaint to and investigation by the commission, a utility may be required to construct extensions greater than 100 feet upon a finding by the commission that such extension is reasonable.

(17) Service connections.

(a) Ownership of service lines.

1. Utility's responsibility. In urban areas with well defined streets, the utility shall furnish and install at its own expense, for the purpose of connecting its distribution system to [the] customer['s] premises, that portion of [the] service pipe from its main to the property line or to and including the curb stop and curb box if used. The curb stop may be installed at a convenient place between [the] property line and [the] curb. If [In cases where] meters are located outdoors, the curb box and curb stop may be omitted if [the] meter installation is provided with a stopcock and [the] connection to the distribution main is made with a service tee that incorporates a positive shutoff device that can be operated with ordinary, readily available tools and the service tee is not located under pavement.

2. Customer's responsibility. The customer, or the company at its option and with commission approval, shall furnish and lay [the] necessary pipe to make the connection from [the] curb stop to [the] place of consumption and shall keep the service line in good repair and in accordance with [such] reasonable requirements of the utility's rules and the commission's regulations [and/or the commission as may be incorporated in their rules and regulations].

3. Inspection. In the installation of a service line, the customer shall not install any tees or branch connections and shall [must] leave the trench open and pipe uncovered until it is examined by an inspector of the utility and shown to be free from any irregularity or defect. The utility shall test all piping downstream from the meter for gas leaks, each time [the] gas is turned on by the utility, by observing that no gas passes through the meter when all appliances are turned off. The utility shall refuse to serve until all gas leaks so disclosed have been properly repaired.

4. Location of service. The customer's service line shall extend to that point on the curb line easiest of access to the utility from its distribution system. When a reasonable doubt exists as to the proper location of the service line, the utility shall be consulted and its approval of the location secured.

(b) All services shall be equipped with a

stopcock near the meter. If the service is not equipped with an outside shutoff, the inside shutoff shall be of a type which can be sealed in the off position.

Section 10. Requirements for Corrosion Control. (1) Scope. This subsection prescribes minimum requirements for [the] protection of metallic pipelines from external, internal, and atmospheric corrosion.

(2) Applicability to converted pipelines. Notwithstanding the date the pipeline was installed or any earlier deadlines for compliance, each pipeline which qualifies for use under this regulation in accordance with Section 1(7) of this regulation shall [must] meet the requirements of this subsection specifically applicable to pipelines installed before August 1, 1971, and all other applicable requirements within one (1) year after the pipeline is readied for service. However, the requirements of this section specifically applicable to pipelines installed after July 31, 1971, apply if the pipeline substantially meets those requirements before it is readied for service or it is a segment which is replaced, relocated, or substantially altered.

(3) General. Each operator shall establish procedures to implement the requirements of this section. These procedures, including those for [the] design, installation, operation and maintenance of cathodic protection systems, shall [must] be carried out by, or under the direction of a person qualified by experience and training in pipeline corrosion control methods.

(4) External corrosion control: buried or submerged pipelines installed after July 31, 1971.

(a) Except as provided in paragraphs (b), (c), and (f) of this subsection, each buried or submerged pipeline installed after July 31, 1971, shall [must] be protected against external corrosion, including the following:

1. It shall [must] have an external protective coating meeting the requirements of subsection (7) of this section.

2. It shall [must] have a cathodic protection system designed to protect the pipeline in its entirety in accordance with this subsection, installed and placed in operation within one (1) year after completion of construction.

(b) An operator need not comply with paragraph (a) of this subsection if the operator can demonstrate by tests, investigation, or experience in the area of application, including, as a minimum, soil resistivity measurements and tests for corrosion accelerating bacteria, that a corrosive environment does not exist. However, within six (6) months after an installation made pursuant to the preceding sentence, the operator shall conduct tests, including pipe-to-soil potential measurements with respect to either a continuous reference electrode or an electrode using close spacing, not to exceed twenty (20) feet, and soil resistivity measurements at potential profile peak locations, to adequately evaluate the potential profile along the entire pipeline. If the tests [made] indicate that a corrosive condition exists, the pipeline shall [must] be cathodically protected in accordance with paragraph (a)2 of this subsection.

(c) An operator need not comply with paragraph (a) of this subsection, if the operator can demonstrate by tests, investigation, or experience that:

1. For a copper pipeline, a corrosive environment does not exist; or

2. For a temporary pipeline with an operating period of service not to exceed five (5) years beyond installation, corrosion during the five (5) year period of service of the pipeline will not be detrimental to public safety.

(d) Notwithstanding the provisions of paragraphs (b) or (c) of this subsection, if a pipeline is externally coated, it shall [must] be cathodically protected in accordance with paragraph (a)2 of this subsection.

(e) Aluminum shall [may] not be installed in [a] buried or submerged pipeline if that aluminum is exposed to an environment with a natural pH in excess of eight (8), unless tests or experience indicate its suitability in the particular environment involved.

(f) This subsection does not apply to electrically isolated, metal alloy fittings in plastic pipelines if:

1. For the size fitting used, an operator can show by tests, investigation, or experience in the area of application that adequate corrosion control is provided by alloyage; and

2. The fitting is designed to prevent leakage caused by localized corrosion pitting.

(5) External corrosion control: buried or submerged pipelines installed before August 1, 1971.

(a) Except for buried piping at compressor, regulator, and measuring stations, each buried or submerged transmission line installed before August 1, 1971, that has an effective external coating shall [must] be cathodically protected along the entire area that is effectively coated, in accordance with this section. For the purposes of this section, [a] pipeline does not have [an] effective external coating if its cathodic protection current requirements are substantially the same as if it were bare. The operator shall make tests to determine [the] cathodic protection current requirements.

(b) Except for cast iron or ductile iron, each of the following buried or submerged pipelines installed before August 1, 1971, shall [must] be cathodically protected in accordance with this section in areas in which active corrosion is found:

1. Bare or ineffectively coated transmission lines.

2. Bare or coated pipes at compressor, regulator, and measuring stations.

3. Bare or coated distribution lines. The operator shall determine [the] areas of active corrosion by electrical survey, or where electrical survey is impractical, by [the] study of corrosion and leak history records, [by] leak detection survey, or [by] other means.

(c) For the purpose of this section, active corrosion means continuing corrosion which, unless controlled, could result in a condition that is detrimental to public safety.

(6) External corrosion control: examination of buried pipeline when exposed. Whenever an operator has knowledge that any portion of a buried pipeline is exposed, the exposed portion shall [must] be examined for evidence of external corrosion if the pipe is bare, or if the coating is deteriorated. If external corrosion is found, remedial action shall [must] be taken to the extent required by subsection (18) of this section and [the] applicable

paragraphs of subsections (19), (20) or (21) of this section.

(7) External corrosion control: protective coating.

(a) Each external protective coating, whether conductive or insulating, applied for [the purpose of] external corrosion control shall [must]:

1. Be applied on a properly prepared surface;

2. Have sufficient adhesion to the metal surface to effectively resist underfilm migration of moisture;

3. Be sufficiently ductile to resist cracking;

4. Have sufficient strength to resist damage due to handling and soil stress; and

5. Have properties compatible with any supplemental cathodic protection.

(b) Each external protective coating which is an electrically insulating type shall [must] also have low moisture absorption and high electrical resistance.

(c) Each external protective coating shall [must] be inspected just prior to lowering the pipe into the ditch and backfilling, and any damage [detrimental] to effective corrosion control shall [must] be repaired.

(d) Each external protective coating shall [must] be protected from damage resulting from adverse ditch conditions or [damage from] supporting blocks.

(e) If coated pipe is installed by boring, driving, or other similar method, precautions shall [must] be taken to minimize damage to the coating during installation.

(8) External corrosion control: cathodic protection.

(a) Each cathodic protection system required by this subsection shall [must] provide a level of cathodic protection that complies with one (1) or more of the applicable criteria contained in Appendix D of this regulation. If none of these criteria is applicable, the cathodic protection system shall [must] provide a level of cathodic protection at least equal to that provided by compliance with one (1) or more of these criteria.

(b) If amphoteric metals are included in a buried or submerged pipeline containing a metal of different anodic potential:

1. [The] Amphoteric metals shall [must] be electrically isolated from the remaining [der of the] pipeline and cathodically protected; or

2. The entire buried or submerged pipeline shall [must] be cathodically protected at a cathodic potential that meets the requirements of Appendix D of this regulation for amphoteric metals.

(c) The amount of cathodic protection shall [must] be controlled [so as not] to prevent damage to [the] protective coating or [the] pipe.

(9) External corrosion control: monitoring.

(a) Each pipeline that is under cathodic protection shall [must] be tested at least once each calendar year but with intervals not exceeding fifteen (15) months to determine whether the cathodic protection meets the requirements of subsection (8) of this section. However, if tests at those intervals are impractical for separately protected short sections of mains or transmission lines, not in excess of 100 feet, or separately protected service lines, these pipelines may be surveyed on a sampling basis. At least ten (10) percent of these protected structures, distributed over the entire system shall [must] be surveyed each calendar year, with a different ten (10) percent checked each subsequent year, so that the entire system is tested in each ten (10) year period.

(b) Each cathodic protection rectifier or other impressed current power source shall [must] be inspected six (6) times each calendar year, but with intervals not exceeding two and one-half (2 1/2) months, to insure that it is operating.

(c) Each reverse current switch, [each] diode, and [each] interference bond whose failure would jeopardize structure protection shall [must] be electrically checked for proper performance six (6) times each calendar year, but with intervals not exceeding two and one-half (2 1/2) months. Each other interference bond shall [must] be checked at least once each calendar year, but with intervals not exceeding fifteen (15) months.

(d) Each operator shall take prompt remedial action to correct any deficiencies indicated by the monitoring.

(e) After the initial evaluation required by subsection (4)(b) and (c) and subsection (5)(b) of this section, each operator shall, at intervals not exceeding three (3) years, reevaluate its unprotected pipelines and cathodically protect them in accordance with this subsection in areas in which active corrosion is found. The operator shall determine [the] areas of active corrosion by electrical survey, or where electrical survey is impractical, by [the] study of corrosion and leak history records, [by] leak detection survey, or [by] other means.

(10) External corrosion control: electrical isolation.

(a) Each buried or submerged pipeline shall [must] be electrically isolated from other underground metallic structures, unless the pipeline and [the] other structures are electrically interconnected and cathodically protected as a single unit.

(b) One (1) or more insulating devices shall [must] be installed where electrical isolation of a portion of a pipeline is necessary to facilitate [the] application of corrosion control.

(c) Except for unprotected copper inserted in ferrous pipe, each pipeline shall [must] be electrically isolated from metallic casings that are [a] part of the underground system. However, if isolation is not achieved because it is impractical, other measures shall [must] be taken to minimize corrosion of the pipeline inside the casing.

(d) Inspection and electrical tests shall [must] be made to assure that electrical isolation is adequate.

(e) An insulating device shall [may] not be installed in an area where a combustible atmosphere is anticipated unless precautions are taken to prevent arcing.

(f) Where a pipeline is located [in] close [proximity] to electrical transmission tower footings, ground cables or counterpoise, or in other areas where fault currents or unusual risk of lightning may be anticipated, it shall be protected [must be provided with protection] against damage due to fault currents or lightning, and protective measures shall [must] be taken at insulating devices. A study shall [must] be made in collaboration with the electric company on [the] common problems of corrosion and electrolysis and taking the following factors into consideration:

1. [The] Possibility of the pipeline carrying either unbalanced line currents or fault currents.

2. [The] Possibility of lightning or fault currents inducing voltages sufficient to puncture pipe coatings or pipe.

3. Cathodic protection of the pipeline, including location of ground beds, especially if the electric line is carried on steel towers.

4. Bonding connections between the pipeline and either the steel tower footings or [the] buried ground facilities or [the] groundwire of the overhead electric system.

(11) External corrosion control: test stations. Each pipeline under cathodic protection required by this subsection shall [must] have sufficient test stations or other contact points for electrical measurement to determine the adequacy of cathodic protection.

(12) External corrosion control: test leads.

(a) Each test lead wire shall [must] be connected to the pipeline [so as] to remain mechanically secure and electrically conductive.

(b) Each test lead wire shall [must] be attached to the pipeline [so as] to minimize stress concentration on the pipe.

(c) Each bared test lead wire and bared metallic area at point of connection to the pipeline shall [must] be coated with [an] electrical insulating material compatible with the pipe coating and [the] insulation on the wire.

(13) External corrosion control: interference currents.

(a) Each operator whose pipeline system is subjected to stray currents shall have in effect a continuing program to minimize [the] detrimental effects of such currents.

(b) Each impressed current type cathodic protection system or galvanic anode system shall [must] be designed and installed [so as] to minimize any adverse effects on existing adjacent underground metallic structures.

(14) Internal corrosion control: general.

(a) Corrosive gas shall [may] not be transported by pipeline, unless the corrosive effect of the gas on the pipeline has been investigated and steps have been taken to minimize internal corrosion.

(b) Whenever any pipe is removed from a pipeline for any reason, the internal surface shall [must] be inspected for evidence of corrosion. If internal corrosion is found:

1. [The] Adjacent pipe shall [must] be investigated to determine the extent of internal corrosion;

2. Replacement shall [must] be made to the extent required by [the] applicable paragraphs of subsections (19), (20) and (21) of this section; and

3. Steps shall [must] be taken to minimize the internal corrosion.

(c) Gas containing more than one-tenth (0.1) grain of hydrogen sulfide per 100 standard cubic feet shall [may] not be stored in pipe-type or bottle-type holders.

(15) Internal corrosion control: monitoring. If corrosive gas is being transported, coupons or other suitable means shall [must] be used to determine [the] effectiveness of [the] steps taken to minimize internal corrosion. Each coupon or other means of monitoring internal corrosion shall [must] be checked two (2) times each calendar year, but with intervals not exceeding seven and one-half (7 1/2) months.

(16) Atmospheric corrosion control: general.

(a) Pipelines installed after July 31, 1971. Each aboveground pipeline or portion of [a] pipeline installed after July 31, 1971, [that is] exposed to the atmosphere shall [must] be cleaned and either coated or jacketed with [a] material suitable for [the] prevention of atmospheric corrosion. An operator need not comply with this paragraph, if the operator can demonstrate by test, investigation, or experience in the area of application, that a corrosive atmosphere does not exist.

(b) Pipelines installed before August 1, 1971. Each operator having an aboveground pipeline or portion of [a] pipeline installed before August 1, 1971, [that is] exposed to the atmosphere, shall:

1. Determine [the] areas of atmospheric corrosion on the pipeline;

2. If atmospheric corrosion is found, take remedial measures to the extent required by [the] applicable paragraphs of subsections (19), (20), or (21) of this section; and

3. Clean and either coat or jacket [the] areas of atmospheric corrosion on the pipeline with [a] material suitable for [the] prevention of atmospheric corrosion.

(17) Atmospheric corrosion control: monitoring. After meeting the requirements of subsection (16)(a) and (b) of this section, each operator shall, at intervals not exceeding three (3) years, reevaluate each pipeline [that is] exposed to the atmosphere and take protective [remedial] action whenever necessary [to maintain protection] against atmospheric corrosion.

(18) Remedial measures: general.

(a) Each segment of metallic pipe that replaces pipe removed from a buried or submerged pipeline because of external corrosion shall [must] have a properly prepared surface and shall [must] be provided with an external protective coating that meets the requirements of subsection (7) of this section.

(b) Each segment of metallic pipe that replaces pipe removed from a buried or submerged pipeline because of external corrosion shall [must] be cathodically protected in accordance with this section.

(c) Except for cast iron or ductile iron pipe, each segment of buried or submerged pipe [that is] required to be repaired because of external corrosion shall [must] be cathodically protected in accordance with this section.

(19) Remedial measures: transmission lines.

(a) General corrosion. Each segment of transmission line with general corrosion and with a remaining wall thickness less than that required for [the] maximum allowable operating pressure of the pipeline shall [must] be replaced or [the] operating pressure reduced commensurate with the strength of the pipe based on actual remaining wall thickness. However, if the area of general corrosion is small, the corroded pipe may be repaired. Corrosion pitting so closely grouped as to affect [the] overall strength of the pipe is considered general corrosion for the purpose of this paragraph.

(b) Localized corrosion pitting. Each segment of transmission line pipe with localized corrosion pitting to a degree where leakage might result shall [must] be replaced or repaired, or [the] operating pressure shall [must] be reduced commensurate with the strength of the pipe, based on [the] actual remaining

wall thickness in the pits.

(20) Remedial measures: distribution lines other than cast iron or ductile iron lines.

(a) General corrosion. Except for cast iron or ductile iron pipe, each segment of generally corroded distribution line pipe with [a] remaining wall thickness less than that required for [the] maximum allowable operating pressure of the pipeline, or [a] remaining wall thickness less than thirty (30) percent of the nominal wall thickness, shall [must] be replaced. However, if the area of general corrosion is small, the corroded pipe may be repaired. Corrosion pitting so closely grouped so as to affect [the] overall strength of the pipe is considered general corrosion for the purpose of this paragraph.

(b) Localized corrosion pitting. Except for cast iron or ductile iron pipe, each segment of distribution line pipe with localized corrosion pitting to a degree where leakage might result shall [must] be replaced or repaired.

(21) Remedial measures: cast iron and ductile iron pipelines.

(a) General graphitization. Each segment of cast iron or ductile iron pipe on which general graphitization is found to a degree where [a] fracture or [any] leakage might result shall [must] be replaced.

(b) Localized graphitization. Each segment of cast iron or ductile iron pipe on which localized graphitization is found to a degree where [any] leakage might result, shall [must] be replaced or repaired, or sealed by internal sealing methods adequate to prevent or arrest [any] leakage.

(22) Corrosion control records.

(a) Each operator shall maintain records or maps to show the location of cathodically protected piping, cathodic protection facilities, other than unrecorded galvanic anodes installed before August 1, 1971, and neighboring structures bonded to the cathodic protection system.

(b) Each of the following records shall [must] be retained for as long as the pipeline remains in service:

1. Each record or map required by paragraph (a) of this subsection.

2. Records of each test, survey, or inspection required by this subsection, in sufficient detail to demonstrate the adequacy of corrosion control measures or that a corrosive condition does not exist.

Section 11. Test Requirements. (1) Scope. This section prescribes minimum leak-test and strength-test requirements for pipelines.

(2) General requirements.

(a) No person shall [may] operate a new segment of pipeline, or return to service a segment of pipeline that has been relocated or replaced, until:

1. It has been tested in accordance with this section and Section 13(11) of this regulation to substantiate [the proposed] maximum allowable operating pressure; and

2. Each potentially hazardous leak has been located and eliminated.

(b) The test medium shall [must] be liquid, air, natural gas or inert gas that is:

1. Compatible with the material of which the pipeline is constructed;

2. Relatively free of sedimentary materials; and

3. Except for natural gas, nonflammable.

(c) Except as provided in subsection (3)(a) of this section, if air, natural gas or inert gas is used as the test medium, the following maximum hoop stress limitations apply:

Maximum Hoop Stress Permissible During Test

	Percent of Specified Minimum Yield			
Class Location	1	2	3	4
Test Medium Air or Inert Gas	80	75	50	40
Natural Gas	80	30	30	30

(d) Each joint [weld] used to tie-in a test segment of pipeline is excepted from specific [the] test requirements of this section, but it must be leak tested at not less than its operating pressure.

(3) Strength test requirements for steel pipeline to operate at [a] hoop stress of thirty (30) percent or more of SMYS:

(a) Except for service lines, each segment of [a] steel pipeline that is to operate at [a] hoop stress of thirty (30) percent or more of SMYS shall [must] be strength tested in accordance with this section to substantiate the proposed maximum allowable operating pressure. In addition, in a Class 1 or Class 2 location, if there is a building intended for human occupancy within 300 feet of a pipeline, a hydrostatic test shall [must] be conducted to a test pressure of at least 125 percent of maximum operating pressure on that segment of [the] pipeline within 300 feet of that [such a] building, but in no event may the test section be less than 600 feet unless the length of the newly installed or relocated pipe is less than 600 feet. However, if the buildings are evacuated while [the] hoop stress exceeds fifty (50) percent of SMYS, air or inert gas may be used as the test medium.

(b) In a Class 1 or Class 2 location, each compressor station, regulator station and measuring station shall [must] be tested to Class 3 location test requirements.

(c) Except as provided in paragraph (e) of this subsection, [the] strength test shall [must] be conducted by maintaining [the] pressure at or above the test pressure for at least eight (8) hours.

(d) If a component other than pipe is the only item being replaced or added to [a] pipeline, a strength test after installation is not required, if the manufacturer of the component certifies that:

1. The component was tested to at least the pressure required for the pipeline to which it is being added; or

2. The component was manufactured under a quality control system that ensures that each item manufactured is at least equal in strength to a prototype and that the prototype was tested to at least the pressure required for the pipeline to which it is being added.

(e) For fabricated units and short sections of pipe, for which a postinstallation test is impractical, a preinstallation strength test shall [must] be conducted by maintaining [the] pressure at or above [the] test pressure for at least four (4) hours.

(4) Test requirements for pipelines [and mains] to operate at [a] hoop stress less than thirty (30) percent of SMYS and at or above 100 psig. Except for service lines and plastic pipelines, each segment of [a] pipeline [that

is] to be operated at [a] hoop stress less than thirty (30) percent of SMYS and at or above 100 psig shall [must] be tested in accordance with the following:

(a) The pipeline operator shall [must] use a test procedure that will insure discovery of all potentially hazardous leaks in the segment being tested.

(b) If, during the test, the segment is to be stressed to twenty (20) percent or more of SMYS, and natural gas, air or inert gas is the test medium:

1. A leak test shall [must] be made at [a] pressure between 100 psig and the pressure required to produce [a] hoop stress of twenty (20) percent of SMYS; or

2. The line shall [must] be walked to check for leaks while [the] hoop stress is held at approximately twenty (20) percent of SMYS.

(c) [The] Pressure shall [must] be maintained at or above [the] test pressure for at least one (1) hour.

(5) Test requirements for pipelines to operate [at or] below 100 psig. Except for service lines and plastic pipelines, each segment of [a] pipeline [that is] to be operated [at or] below 100 psig shall [must] be leak tested in accordance with the following:

(a) The test procedure used shall [must] ensure discovery of all potentially hazardous leaks in the segment being tested.

(b) Each main [that is] to be operated at less than one (1) psig shall [must] be tested to at least ten (10) psig and each main to be operated at or above one (1) psig shall [must] be tested to at least ninety (90) psig.

(6) Test requirements for service lines.

(a) Each segment of [a] service line (other than plastic) shall [must] be leak tested in accordance with this section before being placed in service. If feasible, the service-line connection to the main shall [must] be included in the test; if not feasible, it shall [must] be given a leakage test at the operating pressure when placed in service.

(b) Each segment of [a] service line (other than plastic) intended to be operated at a pressure of at least one (1) psig but not more than forty (40) psig shall [must] be given a leak test at [a] pressure of not less than fifty (50) psig.

(c) Each segment of [a] service line (other than plastic) [intended] to be operated at pressures of more than forty (40) psig shall [must] be tested to the maximum operating pressure or ninety (90) psig, whichever is greater, except that each segment of [a] steel service line stressed to twenty (20) percent or more of SMYS shall [must] be tested in accordance with subsection (4) of this section.

(7) Test requirements for plastic pipelines.

(a) Each segment of [a] plastic pipeline shall [must] be tested in accordance with this subsection.

(b) The test procedure shall [must] insure discovery of all potentially hazardous leaks in the segment being tested.

(c) The test pressure shall [must] be at least 150 percent of [the] maximum operating pressure or fifty (50) psig, whichever is greater. However, [the] maximum test pressure shall [may] not be more than three (3) times the design pressure of the pipe.

(d) [The] Temperature of thermoplastic material shall [must] be no more than 100 degrees Fahrenheit during the test.

(8) Environmental protection and safety requirements.

(a) In conducting tests under this subsection, each operator shall insure that every reasonable precaution is taken to protect its employees and the general public during [the] testing. Whenever [the] hoop stress of the segment of [the] pipeline being tested will exceed fifty (50) percent of SMYS, the operator shall take all practicable steps to keep persons not working on the testing operation outside [of] the testing area until [the] pressure is reduced to or below the proposed maximum allowable operating pressure.

(b) The operator shall insure that the test medium is disposed of in a manner that will minimize damage to the environment.

(9) Records. Each operator shall make, and retain for the useful life of the pipeline, a record of each test performed under subsections (3) and (4) of this section. The record shall [must] contain at least the following information:

(a) [The] Operator's name, [the] name of [the] operator's employee responsible for making the test, and [the] name of any test company used.

(b) Test medium used.

(c) Test pressure.

(d) Test duration.

(e) Pressure recording charts, or other record of pressure readings.

(f) Elevation variations, whenever significant for the particular test.

(g) Leaks and failures noted and their disposition.

Section 12. Uprating. (1) Scope. This subsection prescribes minimum requirements for increasing maximum allowable operation pressures (uprating) for pipelines.

(2) General requirements.

(a) Pressure increases. Whenever provisions [the requirements] of this subsection require that an increase in operating pressure be made in increments, [the] pressure shall [must] be increased gradually, at a rate that can be controlled, and in accordance with the following:

1. At the end of each incremental increase, [the] pressure shall [must] be held constant while the entire segment of pipeline [that is] affected is checked for leaks.

2. Each leak detected shall [must] be repaired before a further pressure increase is made, except that a leak deemed nonhazardous [determined not to be potentially hazardous] need not be repaired, if it is monitored during [the] pressure increase and it does not become [potentially] hazardous.

(b) Records. Each operator who uprates a segment of pipeline shall retain for the life of the segment a record of each investigation required by this subsection, [of] all work performed, and [of] each pressure test conducted, in connection with the uprating.

(c) Written plan. Each operator who uprates a segment of pipeline shall establish a written procedure that will ensure compliance with [that] each applicable requirement of this subsection [is complied with].

(d) Limitation on increase in maximum allowable operating pressure. Except as provided in subsection (3) of this section, a new maximum allowable operating pressure established under this subsection shall [may] not exceed the

maximum that would be allowed under this part for a new segment of pipeline constructed of the same materials in the same location.

(3) Uprating to a pressure that will produce [a] hoop stress of thirty (30) percent or more of SMYS in steel pipeline.

(a) Unless the requirements of this section have been met, no person shall [may] subject any segment of [a] steel pipeline to [an] operating pressure that will produce [a] hoop stress of thirty (30) percent or more of SMYS and that is above the established maximum allowable operating pressure.

(b) Before increasing operating pressure above [the] previously established maximum allowable operating pressure the operator shall:

1. Review the design, operation, and maintenance history, and previous testing of the segment of pipeline to [and] determine if [whether] the proposed increase is safe and consistent with the requirements of this part; and

2. Make any repairs, replacements, or alterations in the segment of pipeline that are necessary for safe operation at the increased pressure.

(c) After complying with paragraph (b) of this subsection, an operator may increase [the] maximum allowable operating pressure of a segment of pipeline constructed before September 12, 1970, to the highest pressure that is permitted under Section 13(11) of this regulation, using as test pressure the highest pressure subjected (either in a strength test or in actual operation).

(d) After complying with paragraph (b) of this subsection, an operator that does not qualify under paragraph (c) of this subsection may increase the previously established maximum allowable operating pressure if at least one (1) of the following requirements is met:

1. The segment of pipeline is successfully tested in accordance with the requirements of this part for a new line of the same material in the same location.

2. An increased maximum allowable operating pressure may be established for a segment of pipeline in a Class 1 location if the line has not previously been tested; and if:

a. It is impractical to test it in accordance with the requirements of this part;

b. The new maximum operating pressure does not exceed eighty (80) percent of that allowed for a new line of the same design in the same location; and

c. The operator determines that the new maximum allowable operating pressure is consistent with the condition of the segment of pipeline and the design requirements of this regulation.

(e) Where a segment of pipeline is uprated in accordance with paragraph (c) or (d) of this subsection, the increase in pressure shall [must] be made in increments that are equal to:

1. Ten (10) percent of the pressure before the uprating; or

2. Twenty-five (25) percent of [the] total pressure increase, whichever produces the fewer number of increments.

(4) Uprating: Steel pipelines to a pressure that will produce [a] hoop stress less than thirty (30) percent of SMYS; plastic, cast iron, and ductile iron pipelines.

(a) Unless [the] requirements of this subsection have been met, no person shall [may] subject:

1. A segment of steel pipeline to [an] operating pressure that will produce [a] hoop stress less than thirty (30) percent of SMYS and [that] is above the previously established maximum allowable operating pressure; or

2. A plastic, cast iron, or ductile iron pipeline segment to an operating pressure [that is] above the previously established maximum allowable operating pressure.

(b) Before increasing operation pressure above the previously established maximum allowable operating pressure, the operator shall:

1. Review the design, operation, and maintenance history of the segment of pipeline;

2. Make a leakage survey (if it has been more than one (1) year since the last survey) and repair any leaks that are found, except that a leak deemed nonhazardous [determined not to be potentially hazardous] need not be repaired, if it is monitored during the pressure increase and it does not become [potentially] hazardous;

3. Make any repairs, replacements, or alterations in the segment of pipeline that are necessary for safe operation at the increased pressure;

4. Reinforce or anchor offsets, bends and dead ends in pipe joined by compression couplings or bell and spigot joints to prevent failure of the pipe joint, if the offset, bend or dead end is exposed in an excavation;

5. Isolate the segment of pipeline in which [the] pressure is to be increased from any adjacent segment that will continue to be operated at [a] lower pressure; and

6. If the pressure in mains or service lines, or both, is to be higher than the pressure delivered to the customer, install a service regulator on each service line and test each regulator to determine that it is functioning. Pressure may be increased as necessary to test each regulator, after a regulator has been installed on each pipeline subject to the increased pressure.

(c) After complying with paragraph (b) of this subsection, the increase in maximum allowable operating pressure shall [must] be made in increments [that are] equal to ten (10) psig or twenty-five (25) percent of [the] total pressure increase, whichever produces the fewer number of increments. Whenever the requirements of paragraph (b)6 of this subsection apply, there shall [must] be at least two (2) approximately equal incremental increases.

(d) If records for cast iron or ductile iron pipeline facilities are not complete enough to determine stresses produced by internal pressure, trench loading, rolling loads, beam stresses, and other bending loads, in evaluating the level of safety of the pipeline when operating at the proposed increased pressure, [ascertain compliance with Section 3(9) and (10) of this regulation, as applicable,] the following procedures shall [must] be followed:

1. In estimating the stresses, if [the] original laying conditions cannot be ascertained, the operator shall assume[, when applying the design formulas of ANSI C101-67,] that cast iron pipe was supported on blocks with tamped backfill and[, when applying the design formulas of ANSI A21.50,] that ductile iron pipe was laid without blocks with tamped backfill.

2. Unless [the] actual maximum cover depth is known, the operator shall measure the actual cover in at least three (3) places where the

cover is most likely to be greatest and shall use the greatest cover measured.

3. Unless [the] actual nominal wall thickness is known, the operator shall determine the wall thickness by cutting and measuring coupons from at least three (3) separate pipe lengths. The coupons shall [must] be cut from pipe lengths in areas where the cover depth is most likely to be [the] greatest. The average of all measurements taken must be increased by the allowance indicated in the following table:

	Allowance (inches)		
	Cast iron pipe		
Pipe size (inches)	Pit cast pipe	Centrifugally cast pipe	Ductile iron pipe
3–8	0.075	0.065	0.065
10–12	0.08	0.07	0.07
14–24	0.08	0.08	0.075
30–42	0.09	0.09	0.075
48	0.09	0.09	0.08
54–60	0.09		

[NOTE: The nominal wall thickness of the cast iron is the standard thickness listed in table 10 or table 11, as applicable, of ANSI C101-67 nearest the value obtained under this subparagraph. The nominal wall thickness of ductile iron pipe is the standard thickness listed in table 6 of ANSI A21.50 nearest the value obtained under this subparagraph.]

4. For cast iron pipe, unless the pipe manufacturing process is known, the operator shall assume that the pipe is pit cast pipe with [a] bursting tensile strength of 11,000 psig and [a] modulus of rupture of 31,000 psig.

Section 13. Operations. (1) Scope. This section prescribes minimum requirements for [the] operation of pipeline facilities.

(2) General provisions.

(a) No person shall [may] operate a segment of pipeline unless it is operated in accordance with this section.

(b) Each operator shall establish a written operating and maintenance plan meeting the requirements of this regulation and keep records necessary to administer the plan.

(3) Essentials of operating and maintenance plan. Each operator shall include the following in its operating and maintenance plan:

(a) Instructions for employees covering operating and maintenance procedures during normal operations and repairs.

(b) Items required to be included by the provisions of Section 14 of this regulation.

(c) Specific programs relating to facilities presenting the greatest hazard to public safety either in an emergency or because of extraordinary construction or maintenance requirements.

(d) A program for conversion procedures, if conversion of a low-pressure distribution system to [a] higher pressure is contemplated.

(e) Provision for periodic inspections to ensure that operating pressures are appropriate for [the] class location.

(f) Instructions enabling personnel who perform operation and maintenance activities to recognize conditions that are potentially safety-related conditions subject to reporting requirements of 807 KAR 5:027, Section 12.

(4) Initial determination of class location and confirmation or establishment of maximum allowable operating pressure.

(a) Before April 15, 1971, each operator shall complete a study to determine for each segment of pipeline with [a] maximum allowable operating pressure that will produce [a] hoop stress that is more than forty (40) percent of SMYS:

1. The present class location of all such pipelines in its system; and

2. Whether [the] hoop stress corresponding to [the] maximum allowable operating pressure for each segment of pipeline is commensurate with the present class location.

(b) Each segment of pipeline that has been determined under paragraph (a) of this subsection to have an established maximum allowable operating pressure producing [a] hoop stress [that is] not commensurate with the class location of the segment of pipeline and that is found [to be] in satisfactory condition, shall [must] have the maximum allowable operating pressure confirmed or revised in accordance with subsection (6) of this section. [The] Confirmation or revision shall [must] be completed not later than December 31, 1974.

(c) Each operator required to confirm or revise an established maximum allowable operating pressure under paragraph (b) of this subsection shall, not later than December 31, 1971, prepare a comprehensive plan, including a schedule, for carrying out the confirmations or revisions. The comprehensive plan must also provide for confirmations or revisions determined to be necessary under subsection (5) of this section, to the extent that they are caused by changes in class locations taking place before July 1, 1973.

(5) Change in class location: required study. Whenever [an] increase in population density indicates a change in class location for a segment of [an] existing steel pipeline operating at hoop stress that is more than forty (40) percent of SMYS, or indicates that [the] hoop stress corresponding to the established maximum allowable operating pressure for a segment of existing pipeline is not commensurate with the present class location, the operator shall immediately make a study to determine:

(a) [The] Present class location for the segment involved;

(b) [The] Design, construction, and testing procedures followed in [the] original construction, and a comparison of these procedures with those required for the present class location by [the] applicable provisions of this part;

(c) [The] Physical condition of the segment to the extent it can be ascertained from available records;

(d) [The] Operating and maintenance history of the segment;

(e) [The] Maximum actual operating pressure and the corresponding operating hoop stress, taking pressure gradient into account, for the segment of pipeline involved; and

(f) [The] Actual area affected by the population density increase, and physical barriers or other factors which may limit further expansion of the more densely populated area.

(6) Change in class location: confirmation or revision of maximum allowable operating pressure. If [the] hoop stress corresponding to the established maximum allowable operating pressure of a segment of pipeline is not

commensurate with [the] present class location, and the segment is in satisfactory physical condition, the maximum allowable operating pressure of that segment of pipeline shall [must] be confirmed or revised according to one (1) of the following requirements: [as follows:]

(a) If the segment involved has been previously tested in place for a period of not less than eight (8) hours, the maximum allowable operating pressure is eight-tenths (0.8) times the test pressure in Class 2 locations, 0.667 times the test pressure in Class 3 locations, or 0.555 times the test pressure in Class 4 locations. [to or at least ninety (90) percent of its SMYS for a period of not less than eight (8) hours, the maximum allowable operating pressure must be confirmed or reduced so that] The corresponding hoop stress will not exceed seventy-two (72) percent of SMYS of the pipe in Class 2 locations, sixty (60) percent of SMYS in Class 3 locations, or fifty (50) percent of SMYS in Class 4 locations.

(b) [If the segment involved has not been previously tested in place as described in paragraph (a) of this subsection,] The maximum allowable operating pressure shall [must] be reduced so that [the] corresponding hoop stress is not more than that allowed by this part for new segments of pipelines in the existing class location.

(c) [If] The segment [of pipeline] involved shall [has not been qualified for operation under paragraph (a) or (b) of this subsection, it must] be tested in accordance with [the] applicable requirements of Section 11 of this regulation, and its maximum allowable operating pressure shall [must] then be established according to the following criteria: [so as to be equal to or less than the following:]

1. [The] Maximum allowable operating pressure after the requalification test is eight-tenths (0.8) times the test pressure for Class 2 locations, 0.667 times the test pressure for Class 3 locations, and 0.555 times the test pressure for Class 4 locations.

2. [The] Maximum allowable operating pressure confirmed or revised in accordance with this subsection, shall [may] not exceed [the] maximum allowable operating pressure established before [the] confirmation or revision.

3. [The] Corresponding hoop stress shall [may] not exceed seventy-two (72) percent of [the] SMYS of the pipe in Class 2 locations, sixty (60) percent of [the] SMYS in Class 3 locations, or fifty (50) percent of the SMYS in Class 4 locations.

(d) Confirmation or revision of the maximum allowable operating pressure of a segment of pipeline in accordance with this section does not preclude the application of Section 12(2) and (3) of this regulation.

(e) Confirmation or revision of [the] maximum allowable operating pressure that is required as a result of [a study under] subsection (5) of this section shall [must] be completed within eighteen (18) months of the change in class location. Pressure reduction under paragraphs (a) and (b) of this subsection within the eighteen (18) month period does not preclude establishing a maximum allowable operating pressure under paragraph (c) of this subsection at a later date. [as follows:]

[1. Confirmation or revision due to changes in class location that occur before July 1, 1973, must be completed not later than December 31, 1974.]

[2. Confirmation or revision due to changes in class location that occur on or after July 1, 1973, must be completed within eighteen (18) months of the change in class location.]

(7) Continuing surveillance.

(a) Each operator shall have a procedure to monitor [for continuing surveillance of] its facilities to determine and take appropriate action concerning changes in class location, failures, leakage history, corrosion, substantial changes in cathodic protection requirements, and other unusual operating and maintenance conditions.

(b) If a segment of pipeline is determined to be in unsatisfactory condition but no immediate hazard exists, the operator shall initiate a program to recondition or phase out the segment involved, or, if the segment cannot be reconditioned or phased out, reduce the maximum allowable operating pressure in accordance with subsection (11)(a) and (b) of this section.

(8) Damage prevention program.

(a) Except for pipelines listed in paragraph (c) of this subsection, each operator of a buried pipeline shall carry out in accordance with this subsection a written program to prevent damage to that pipeline by excavation activities. For the purpose of this subsection, "excavating activities" include excavation, blasting, boring, tunneling, backfilling, [the] removal of aboveground structures by either explosive or mechanical means, and other earth moving operations. An operator may perform any [of the] duties required by paragraph (b) of this subsection through participation in a public service program, such as a "one-call" system, but such participation does not relieve the operator of responsibility for compliance with this subsection.

(b) The damage prevention program required by paragraph (a) of this subsection shall [must], at a minimum:

1. Include the identity, on a current basis, of persons who normally engage in excavation activities in the vicinity of [area in which] the pipeline [is located].

2. Provide for notification to [of] the public in the vicinity of the pipeline and actual notification to [of the] persons identified in paragraph (b)1 of this subsection [of the following] as often as needed to make them aware of the existence and purpose of the damage prevention program and how to learn the location of underground pipelines prior to excavation activities. [:]

[a. The program's existence and purpose; and]

[b. How to learn the location of underground pipelines before excavation activities are begun.]

3. Provide a means of receiving and recording notification of planned excavation activities.

4. If the operator has buried pipelines in the area of excavation activity, provide for actual notification to persons who give notice of their intent to excavate of [Provide for actual notification of persons who give notice of their intent to excavate of whether there are buried pipelines in the area of excavation activity and, if so, the type of] temporary marking to be provided and how to identify the markings.

5. Provide for temporary marking of buried pipelines near [in the area of] excavation activity before, as far as practical, [the] activity begins.

6. Provide [as follows] for frequent inspection of pipeline[s that] an operator has reason to believe could be damaged by excavation activities[:

a. The inspection must be done as frequently as necessary during and after the activities] to verify the integrity of the pipeline; and

[b.] in the case of blasting, any inspection shall [must] include leakage surveys.

(c) A damage prevention program under this subsection is not required for the following pipelines:

1. Pipelines in a Class 1 or 2 location.

2. Pipelines in a Class 3 location defined by Section 1(3)(d)2 of this regulation that are marked in accordance with Section 14(5) of this regulation.

3. Pipelines to which access is physically controlled by the operator.

4. Pipelines that are part of a petroleum gas system subject to Section 1(6) of this regulation or part of a distribution system operated by a person in connection with that person's leasing of real property or by a condominium or cooperative association.

(9) Emergency plans.

(a) Each operator shall establish written procedures to minimize [the] hazard resulting from a gas pipeline emergency. At a minimum, [the] procedures shall [must] provide for the following:

1. Receiving, identifying, and classifying notices of events which require immediate response by the operator.

2. Establishing and maintaining adequate means of communication with appropriate fire, police, and other public officials.

3. Prompt and effective response to a notice of each type of emergency, including gas, fire, explosion or natural disaster near or involving a building with gas pipeline or pipeline facility. [the following:]

[a. Gas detected inside or near a building.]

[b. Fire located near or directly involving a pipeline facility.]

[c. Explosion occurring near or directly involving a pipeline facility.]

[d. Natural disaster.]

4. [The] Availability of personnel, equipment, tools, and materials, as needed at the scene of [an] emergency.

5. Actions directed toward protecting people first and then property.

6. Emergency shutdown and pressure reduction in any section of the operator's pipeline system necessary to minimize hazards to life or property.

7. Making safe any actual or potential hazard to life or property.

8. Notifying appropriate fire, police and other public officials of gas pipeline emergencies and coordinating with them, both planned responses and actual responses during an emergency.

9. Safely restoring any service outage.

10. Beginning action under subsection (10) of this section, if applicable, as soon after the end of the emergency as possible.

(b) Each operator shall:

1. Furnish its supervisors who are responsible for emergency action a copy of that portion of the latest edition of [the] emergency procedures established under paragraph (a) of this subsection as necessary for compliance with those procedures.

2. Train [the] appropriate operating personnel in [to assure that they are knowledgeable of the] emergency procedures and verify that [the] training is effective.

3. Review employee activities to determine whether [the] procedures were effectively followed in each emergency.

(c) Each operator shall establish and maintain liaison with appropriate fire, police, and other public officials to:

1. Learn the responsibility and resources of each government organization that may respond to a gas pipeline emergency;

2. Acquaint [the] officials with the operator's ability [in responding] to respond to a gas pipeline emergency;

3. Identify [the] types of gas pipeline emergencies of which the operator notifies [the] officials; and

4. Plan how the operator and officials can engage in mutual assistance to minimize hazards to life or property.

(d) Each operator shall establish a continuing educational program to enable customers, the public, appropriate governmental organizations, and person engaged in excavation-related activities to recognize a gas pipeline emergency for the purpose of reporting it to the operator or [the] appropriate public officials. The program and [the] media used shall [must] be as comprehensive as necessary to reach all areas in which the operator transports gas. The program shall [must] be conducted in English and in other languages commonly understood by a significant number and concentration of the non-English speaking population in the operator's area.

(10) Investigation of failures. Each operator shall establish procedures for analyzing accidents and failure, including [the] selection of samples of the failed facility or equipment for laboratory examination, where appropriate, to [for the purpose of] determine [ing] the causes of the failure and to minimize [ing] the possibility of [a] recurrence.

(11) Maximum allowable operating pressure: steel or plastic pipelines.

(a) Except as provided in paragraph (c) of this subsection, no person shall [may] operate a segment of steel or plastic pipeline at a pressure that exceeds the lowest of the following:

1. [The] Design pressure of the weakest element in the segment, determined in accordance with Sections 3 and 4 of this regulation.

2. [The] Pressure obtained by dividing the pressure to which the segment was tested after construction as follows:

a. For plastic pipe in all locations, [the] test pressure is divided by a factor of one and five-tenths (1.5).

b. For steel pipe operated at 100 psig or more, [the] test pressure is divided by a factor determined in accordance with the following table:

Class Location	Segment Installed before 11/12/70	Segment Installed after 11/11/70	Converted under Section 1(8)
1	1.10	1.10	1.25
2	1.25	1.25	1.25
3	1.40	1.50	1.50
4	1.40	1.50	1.50

3. [The] Highest actual operating pressure to which the segment was subjected during the five (5) years preceding July 1, 1970, unless the segment was tested in accordance with paragraph (a)2 of this subsection after July 1, 1965, or the segment was uprated in accordance with Section 12 of this regulation.

4. For furnace butt welded steel pipe, [a] pressure equal to sixty (60) percent of the mill test pressure to which the pipe was subjected.

5. For steel pipe other than furnace butt welded pipe, [a] pressure equal to eighty-five (85) percent of the highest test pressure to which the pipe has been subjected, whether by mill test or by [the] post installation test.

6. [The] Pressure determined by the operator to be the maximum safe pressure after considering the history of the segment, particularly known corrosion and [the] actual operating pressure.

(b) No person shall [may] operate a segment to which paragraph (a)6 of this subsection is applicable, unless overpressure protective devices are installed on the segment to [in a manner that will] prevent [the] maximum allowable operating pressure from being exceeded, in accordance with Section 4(30) of this regulation.

(c) Notwithstanding [the] other requirements of this subsection, an operator may operate a segment of pipeline found to be in satisfactory condition, considering its operating and maintenance history, at the highest actual operating pressure to which the segment was subjected during the five (5) years preceding July 1, 1970.

(12) Maximum allowable operating pressure: high-pressure distribution systems.

(a) No person shall [may] operate a segment of high-pressure distribution system at a pressure that exceeds the lowest of the following pressures, as applicable:

1. [The] Design pressure of the weakest element in the segment, determined in accordance with Sections 3 and 4 of this regulation.

2. Sixty (60) psig, for a segment of a distribution system otherwise designed to operate at over sixty (60) psig, unless [the] service lines in the segment are equipped with service regulators or other pressure limited devices in series that meet the requirements of Section 4(31)(c) of this regulation.

3. Twenty-five (25) psig, in segments of cast iron pipe in which there are unreinforced bell and spigot joints.

4. [The] Pressure limits to which a joint could be subjected without [the possibility of its] parting.

5. [The] Pressure determined by the operator to be maximum safe pressure after considering the history of the segment, particularly known corrosion and [the] actual operating pressures.

(b) No person shall [may] operate a segment of pipeline to which paragraph (a)5 of this subsection applies, unless overpressure protective devices are installed on the segment to [in a manner that will] prevent the maximum allowable operating pressure from being exceeded, in accordance with Section 4(30) of this regulation.

(13) Maximum and minimum allowable operating pressure: low-pressure distribution systems.

(a) No person shall [may] operate a low-pressure distribution system at a pressure high enough to make unsafe the operation of any connected and properly adjusted low-pressure gas burning equipment.

(b) No person shall [may] operate a low-pressure distribution system at a pressure lower than the minimum pressure at which the safe and continuing operation of any connected and properly adjusted low-pressure gas burning equipment can be assured.

(14) Standard pressure.

(a) All utilities supplying gas for light, heat, power or other purposes shall, subject to [the] approval of the commission, adopt and maintain a standard pressure as measured at the customer's meter outlet. In adopting such standard pressure the utility may divide its distribution system into districts and establish a separate standard pressure for each [such] district, or the utility may establish a single standard pressure for its distribution system as a whole.

(b) The standard pressure to be adopted as [herein] provided in this section shall be a part of the utility's schedule of rates and general rules and regulations.

(c) No change shall be made by a utility in [the] standard pressure or pressure adopted except in case of emergency.

(15) Allowable variations of standard service pressure.

(a) [The] Variations of standard pressure as established under the preceding rule shall not exceed the adopted pressure by more than fifty (50) percent plus or minus.

(b) A utility supplying gas shall not be deemed to have violated paragraph (a) of this subsection, if it can be shown that variations from said pressure are due to:

1. Use of gas by the customer in violation of contract under [of] the rules of the utility.

2. Infrequent fluctuations of short duration due to unavoidable conditions of operation.

(c) Allowable variations in standard pressure other than those covered by paragraph (a) of this subsection shall [will] be established by the commission when application is made and good cause shown for allowance [therefor].

(d) The gas pressures required above shall be maintained at the outlet of the meter [in such a manner] to provide safe and efficient utilization of gas in properly adjusted appliances supplied through adequately sized customer's facilities.

(16) Continuity of service.

(a) The utility shall keep a complete record of all interruptions on its entire system or on major divisions of its system [thereof]. The record shall show the cause of interruption, date, time, duration, remedy and steps taken to prevent recurrence. The commission shall be notified of major interruptions as soon as they come to the attention of the utility and a complete report made after restoration of service.

(b) [An] Interruption of service, as [the term is] used here, shall also mean the interval of time during which [the] pressure drops below fifty (50) percent of such adopted standard pressure on the entire system, or on one (1) or more entire major division or divisions for which an average standard pressure has been adopted.

(17) Odorization of gas.

(a) [A] Combustible gas in a distribution line shall [must] contain a natural odorant or be odorized so that at a concentration in air of

one-fifth (1/5) of the lower explosive limit (approximately one (1) percent by volume), [the] gas is readily detectable by a person with a normal sense of smell.

(b) [A] Combustible gas in a transmission line in a Class 3 or Class 4 location shall [must] comply with the requirements of paragraph (a) of this subsection unless:

1. At least fifty (50) percent of the length of the line downstream from that location is in a Class 1 or Class 2 location;

2. The line transports gas to any of the following facilities which received gas without an odorant from that line before May 5, 1975:

a. [An] Underground storage field;

b. [A] Gas processing plant;

c. [A] Gas dehydration plant; or

d. [An] Industrial plant using gas in a process where [the] presence of an odorant[:

(i)] makes the end product unfit for the purpose for which it is intended;

[(ii)] reduces the activity of a catalyst; or

[(iii)] reduces the percentage completion of a chemical reaction.

3. When [In the case of] lateral line [which] transports gas to a distribution center, at least fifty (50) percent of the length of that line is in a Class 1 or Class 2 location.

(c) Odorant shall not be harmful to persons, materials, or pipe.

(d) [(c) The] Products of combustion from the odorant shall [may] not be toxic when breathed nor shall [may] they be corrosive or harmful to those materials to which the products of combustion will be exposed.

(e) [(d) The] Odorant shall [may] not be soluble in water to an extent greater than two and one-half (2.5) parts to 100 parts by weight.

(f) [(e)] Equipment for odorization shall [must] introduce [the] odorant without wide variations in the level of odorant.

(g) [(f)] Each utility shall conduct sampling of combustible gases to assure [the] proper concentration of odorant in accordance with this section unless otherwise approved by the commission.

1. The utility shall sample gases in each separately odorized system at approximate[ly the] furthest point from injection of [the] odorant.

2. Sampling shall be conducted with equipment designed to detect and verify [the] proper level of odorant.

3. Separately odorized systems with ten (10) or fewer customers shall be sampled for proper odorant level at least once each ninety-five (95) days.

4. Separately odorized systems with more than ten (10) customers shall be sampled for proper odorant level at least once each week.

(18) Tapping pipelines under pressure. Each tap made on a pipeline under pressure shall [must] be performed by a crew qualified to make hot taps.

(19) Purging of pipelines.

(a) When [a] pipeline is being purged of air by use of gas, the gas shall [must] be released into one (1) end of the line in a moderately rapid and continuous flow. If gas cannot be supplied in sufficient quantity to prevent the formation of a hazardous mixture of gas and air, a slug of inert gas shall [must] be released into the line before the gas.

(b) When [a] pipeline is being purged of gas by use of air, the air shall [must] be released into one (1) end of the line in a moderately rapid and continuous flow. If air cannot be supplied in sufficient quantity to prevent the formation of a hazardous mixture of gas and air, a slug of inert gas shall [must] be released into the line before the air.

Section 14. Maintenance. (1) Scope. This section prescribes minimum requirements for maintenance of pipeline facilities.

(2) General.

(a) No person shall [may] operate a segment of pipeline, unless it is maintained in accordance with this section.

(b) Each segment of pipeline that becomes unsafe shall [must] be replaced, repaired, or removed from service.

(c) Hazardous leaks must be repaired promptly.

(3) Transmission lines: patrolling.

(a) Each operator shall have a patrol program to observe surface conditions on and adjacent to the transmission line right-of-way for indications of leaks, construction activity, and other factors affecting safety and operation.

(b) [The] Frequency of patrols is determined by [the] size of [the] line, [the] operating pressures, [the] class location, terrain, weather, and other relevant factors, but intervals between patrols shall [may] not be longer than prescribed in the following table:

	Maximum Interval Between Periods	
Class Location of Line	At Highway and Railroad Crossings	At All Other Places
1 & 2	7 1/2 months; but at least twice each calendar year	15 months; but at least once each calendar year
3	4 1/2 months; but at least four time each calendar year	7 1/2 months; but at least twice each calendar year
4	4 1/2 months; but at least four times each calendar year	4 1/2 months; but at least four times each calendar year

(4) Transmission lines: leakage surveys.

(a) Each operator of a transmission line shall provide for periodic leakage surveys of [the] line in its operating and maintenance plan.

(b) Leakage surveys of a transmission line shall [must] be conducted at intervals not exceeding fifteen (15) months; but at least once each calendar year. However, if a [in the case of a] transmission line [which] transports gas in conformity with Section 13(17) of this regulation without an odor or odorant, leakage surveys using leak detector equipment shall [must] be conducted;

1. In Class 3 locations, at intervals not exceeding seven and one-half (7 1/2) months; but at least twice each calendar year; and

2. In Class 4 locations, at intervals not exceeding four and one-half (4 1/2) months; but at least four (4) times each calendar year.

(5) Line markers for mains and transmission lines.

(a) Buried pipelines. Except as provided in

paragraph (b) of this subsection, a line marker shall [must] be placed and maintained as close as practical over each buried main and transmission line:

1. At each crossing of a public road or [,] railroad[, and navigable waterway (for purposes of this section, navigable waterway is defined as any body of water on which travel commercial vessels)]; and

2. Wherever necessary to identify the location of the transmission line or main to reduce the possibility of damage or interference.

(b) Exceptions for buried pipelines. Line markers are not required for buried mains and transmission lines:

1. Located under inland navigable waters;

2. In Class 3 or Class 4 locations:

a. Where placement of a marker is impractical; or

b. Where a damage prevention program is in effect under Section 13(8) of this regulation; or

3. In the case of navigable waterway crossings, within 100 feet of a line marker placed and maintained at that waterway in accordance with this section.

(c) Pipelines above ground. Line markers shall [must] be placed and maintained along each section of a main and transmission line [that is] located above ground in an area accessible to the public.

(d) Markers other than at navigable waterways. The following shall [must] be written legibly on a background of sharply contrasting color on each line marker not placed at a navigable waterway:

1. The word "Warning," "Caution," or "Danger," followed by the words "Gas (or name of gas transported) Pipeline," all of which, except for markers in heavily developed urban areas, shall [must] be in letters at least one (1) inch high with one-quarter (1/4) inch stroke.

2. The name of the operator and [the] telephone number (including area code) where the operator can be reached at all times.

(e) Markers at navigable waterways. Each line marker at a navigable waterway shall [must] have the following characteristics:

1. A rectangular sign[, rectangular in shape,] with a narrow strip along each edge, colored international orange, and the area between lettering on the sign and boundary strips colored white.

2. Written on the sign in block style, black letters:

a. The word "Warning," "Caution," or "Danger," followed by the words, "Do Not Anchor or Dredge" and the words, "Gas (or name of gas transported Pipeline Crossing;" and

b. The name of the operator and [the] telephone number (including area code) where the operator can be reached at all times.

3. In overcast daylight, the sign is visible and the writing required by paragraph (e)2a of this subsection is legible, from approaching or passing vessels that may damage or interfere with the pipeline.

(6) Transmission lines: recordkeeping. Each utility shall keep records covering each leak discovered, repair made, transmission line break, leakage survey, line patrol, and inspection, for as long as the segment of transmission line involved remains in service.

(7) Transmission lines: general requirements for repair procedures.

(a) Each utility shall take immediate temporary measures to protect the public whenever:

1. A leak, imperfection, or damage that impairs its serviceability is found in a segment of steel transmission line operating at or above forty (40) percent of [the] SMYS; and

2. It is not feasible to make a permanent repair at the time of discovery.

[(a)] As soon as feasible, the utility shall make permanent repairs.

[(b)] Except as provided in subsection (10)(a)3 of this section, no utility shall [may] use a welded patch as a means of repair.

(8) Transmission lines: permanent field repair of imperfections and damages.

(a) Except as provided in paragraph (b) of this subsection, each imperfection or damage that impairs [the] serviceability of a segment of steel transmission line operating at or above forty (40) percent of SMYS must be repaired as follows:

1. If it is feasible to take the segment out of service, the imperfection or damage must be removed by cutting out a cylindrical piece of pipe and replacing it with pipe of similar or greater design strength.

2. If it is not feasible to take the segment out of service, a full encirclement welded split sleeve of appropriate design shall [must] be applied over the imperfection or damage.

3. If the segment is not taken out of service, [the] operating pressure shall [must] be reduced to a safe level during [the] repairs [operation].

(b) Submerged pipelines in inland navigable waters may be repaired by mechanically applying a full encirclement split sleeve of appropriate design over the imperfection or damage.

(9) Transmission lines: permanent field repair of welds. Each weld that is unacceptable under Section 5(11)(c) of this regulation shall [must] be repaired as follows:

(a) If it is feasible to take the segment of transmission line out of service, the weld shall [must] be repaired in accordance with [the] applicable requirements of Section 5(13) of this regulation.

(b) A weld may be repaired in accordance with Section 5(13) of this regulation while the segment of transmission line is in service if:

1. The weld is not leaking;

2. [The] Pressure in the segment is reduced so that it does not produce a stress [that is] more than twenty (20) percent of [the] SMYS of the pipe; and

3. Grinding of the defective area can be limited so that at least one-eighth (1/8) inch thickness in the pipe weld remains.

(c) A defective weld which cannot be repaired in accordance with paragraph (a) or (b) of this subsection shall [must] be repaired by installing a full encirclement welded split sleeve of appropriate design.

(10) Transmission lines: permanent field repair of leaks.

(a) Except as provided in paragraph (b) of this subsection, each permanent field repair of a leak on a transmission line shall [must] be made as follows:

1. If feasible, the segment of transmission line shall [must] be taken out of service and repaired by cutting out a cylindrical piece of pipe and replacing it with pipe of similar or greater design strength.

2. If it is not feasible to take the segment of transmission line out of service, repairs

shall [must] be made by installing a full encirclement welded split sleeve of appropriate design, unless the transmission line:

a. Is joined by mechanical couplings; and

b. Operates at less than forty (40) percent of SMYS.

3. If the leak is due to a corrosion pit, [the] repair may be made by installing properly designed bolt-on leak clamp. [s; or,] If the leak is due to a corrosion pit and on pipe of not more than 40,000 psi SMYS, [the] repair may be made by fillet welding over the pitted area a steel plate patch with rounded corners, of the same or greater thickness than the pipe, and not more than one-half (1/2) of the diameter of the pipe in size.

(b) Submerged pipelines in inland navigable waters may be repaired by mechanically applying a full encirclement split sleeve of appropriate design over the leak.

(11) Transmission lines: testing of repairs.

(a) Testing of replacement pipe.

[1.] If a segment of transmission line is repaired by cutting out the damaged portion of [the] pipe as a cylinder, [the] replacement pipe shall [must] be tested to the pressure required for a new line installed in the same location. This test may be made on pipe before it is installed.

[2. The test required by subparagraph 1 of this paragraph may be made on the pipe before it is installed, but all field girth butt welds that are not strength tested must be tested after installation by nondestructive tests meeting the requirements of Section 5(12) of this regulation.]

(b) Testing of repairs made by welding. Each repair made by welding in accordance with subsections (8), (9) and (10) of this section shall [must] be examined in accordance with Section 5(11) of this regulation.

(12) Distribution systems: patrolling.

(a) The frequency of patrolling mains shall [must] be determined by the severity of [the] conditions which could cause failure or leakage, and the consequent hazards to public safety.

(b) Mains in places or on structures where anticipated physical movement or external loading could cause failure or leakage shall [must] be patrolled at intervals not exceeding four and one-half (4 1/2) months, but at least four (4) times each calendar year.

(13) Distribution systems: leakage surveys and procedures.

(a) Each utility shall provide for periodic leakage surveys in its operating and maintenance plan.

(b) The type and scope of the leakage control program shall [must] be determined by the nature of the operations and [the] local conditions; but it shall [must] meet the following minimum requirements:

1. At least once each calendar year, but at intervals not exceeding fifteen (15) months, a gas detector survey shall be conducted in business districts, involving tests of the atmosphere in gas, electric, telephone, sewer and water system manholes, and where access is not denied at inside basement walls of public and commercial buildings located adjacent to gas mains and service lines, at cracks in pavement and sidewalks and at other locations providing an opportunity for finding gas leaks.

2. Leakage surveys of the distribution system outside of [the] principal business areas shall [must] be made as frequently as necessary, but at intervals not exceeding five (5) years.

(c) Each gas utility shall maintain a record for five (5) years of gas leaks reported by the public, utility employees, or detected by leak surveys. [This record shall be maintained for a period of five (5) years.]

(d) Each leak detected shall be graded according to the following standard:

1. Grade 1 - hazardous leaks. A leak that represents an existing or probable hazard to persons or property and requires immediate repair or continuous action until conditions are no longer hazardous.

2. Grade 2 - nonhazardous leaks. A leak that is recognized as being nonhazardous at time of detection but justifies scheduled repair based on probable future hazard.

3. Grade 3 - nuisance leaks. A leak that is nonhazardous at time of detection and can be reasonably expected to remain nonhazardous. Grade 3 leaks shall be monitored and reevaluated until the leak is regraded or no longer results in a reading.

[(e) Each of the above leak gradings shall be defined as follows:]

[1. Grade 1 - a leak that represents an existing or probable hazard to persons or property and requires immediate repair or continuous action until the conditions are no longer hazardous.]

[2. Grade 2 - a lead that is recognized as being nonhazardous at the time of detection but justifies scheduled repair based on probable future hazard.]

[3. Grade 3 - a leak that is nonhazardous at the time of detection and can be reasonably expected to remain nonhazardous. Grade 3 leaks shall be monitored and reevaluated until the leak is regraded or no longer results in a reading.]

(14) Test requirements for reinstating service lines.

(a) Except as provided in paragraph (b) of this subsection, each disconnected service line shall [must] be tested in the same manner as a new service line, before being reinstated.

(b) Each service line temporarily disconnected from the main shall [must] be tested from [the] point of disconnection to the service line valve in the same manner as a new service line, before reconnecting. However, if provisions are made to maintain continuous service, such as by installation of a bypass, any part of the original service line used to maintain continuous service need not be tested.

(15) Abandonment or inactivation of facilities.

(a) Each utility shall provide in its operating and maintenance plan for abandonment or deactivation of pipelines, including provisions for meeting each [of the] requirement of this subsection.

(b) Each pipeline abandoned in place shall [must] be disconnected from all sources and supplies of gas, purged of gas, and sealed at the ends. However, the pipeline need not be purged when the volume of gas is so small that there is not potential hazard.

(c) Except for service lines, each inactive pipeline [that is] not being maintained under this section shall [must] be disconnected from all sources and supplies of gas, purged of gas, and sealed at the ends. However, the pipeline need not be purged when the volume of gas is so small that there is not potential hazard.

(d) Whenever service to a customer is discontinued, one (1) of the following steps shall be taken [must be complied with]:

1. The valve that is closed to prevent [the] flow of gas to the customer shall [must] be provided with a locking device or other means designed to prevent [the] opening of the valve by persons other than those authorized by the utility.

2. A mechanical device or fitting that will prevent [the] flow of gas shall [must] be installed in the service line or in the meter assembly.

3. The customer's piping shall [must] be physically disconnected from the gas supply and the open pipe ends sealed.

(e) If air is used for purging, the utility shall insure that a combustible mixture is not present after purging.

(f) Each abandoned vault shall [must] be filled with [a] suitable compacted material.

(16) Compressor stations: procedures for gas compressor units. Each utility shall establish starting, operating, and shutdown procedures for gas compressor units.

(17) Compressor stations: inspection and testing of relief devices.

(a) Except for rupture discs, each pressure relieving device in a compressor station shall [must] be inspected and tested in accordance with subsections (21) and (23) of this section, and shall [must] be operated periodically to determine that it opens at the correct set pressure.

(b) Any defective or inadequate equipment found shall [must] be promptly repaired or replaced.

(c) Each remote control shutdown device shall [must] be inspected and tested at intervals not to exceed fifteen (15) months, but at least once each calendar year to determine that it functions properly.

(18) Compressor stations: isolation of equipment for maintenance or alterations. Each utility shall establish procedures for maintaining compressor stations, including provisions for isolating units or sections of pipe and for purging before returning to service.

(19) Compressor stations: storage of combustible materials.

(a) Flammable or combustible materials in quantities beyond those required for everyday use, or other than those normally used in compressor buildings, shall [must] be stored a safe distance from the compressor building.

(b) Above ground oil or gasoline storage tanks shall [must] be protected in accordance with National Fire Protection Association Standard No. 30.

(20) Pipe-type and bottle-type holders: plan for inspection and testing. Each utility having a pipe-type or bottle-type holder shall establish a plan for [the] systematic, routine inspection and testing of these facilities, including the following:

(a) Provision shall [must] be made for detecting external corrosion before [the] strength of the container has been impaired.

(b) Periodic sampling and testing of gas in storage shall [must] be made to determine the dew point of vapors contained in [the] stored gas, that if condensed, might cause internal corrosion or interfere with [the] safe operation of the storage plant.

(c) [The] Pressure control and pressure limiting equipment shall [must] be inspected and tested periodically to determine that it is in a safe operating condition and has adequate capacity.

(21) Pressure limiting and regulating stations: inspection and testing. Each pressure limiting station, relief device (except rupture discs), and pressure regulating station and its equipment shall [must] be subjected, at intervals not exceeding fifteen (15) months, but at least once each calendar year, to inspections and tests to determine that it is:

(a) In good mechanical condition;

(b) Adequate from the standpoint of capacity and reliability of operation for the service in which it is employed;

(c) Set to function at the correct pressure; and

(d) Properly installed and protected from dirt, liquids, or other conditions that might prevent proper operation.

(22) Pressure limiting and regulating stations: telemetering or recording gauges.

(a) Each utility shall keep [continually] in continual use [on its distribution system or systems] one (1) or more accurate recording pressure gauges on its distribution systems. These gauges shall [must] be located at such [point or] points and in such [a] manner sufficient to reflect a continuous record of [the] gas pressure and character of service being furnished throughout the entire system [or systems].

(b) In addition to the recording pressure gauges required in paragraph (a) of this subsection, all utilities distributing gas shall maintain [provide themselves with] one (1) or more portable recording pressure gauges with which pressure surveys shall be made in sufficient number to indicate the service furnished and to satisfy the commission of the utility's compliance with pressure requirements.

(c) All recording pressure [gauge] charts or records shall be preserved and filed in a systematic manner and each chart shall show [the] date and location when the record was made. All charts or records shall [must] be kept on file by the utility for [a period of] at least two (2) years.

(d) If there are indications of abnormally high or low-pressure, the regulator and [the] auxiliary equipment shall [must] be inspected and [the] necessary measures employed to correct any satisfactory operating conditions.

(23) Pressure limiting and regulating stations: testing of relief devices.

(a) If feasible, pressure relief devices (except rupture discs) shall [must] be tested in place, at intervals not exceeding fifteen (15) months, but at least once each calendar year, to determine that they have enough capacity to limit the pressure on the facilities to which they are connected to [the] desired maximum pressure.

(b) If a test is not feasible, review and calculation of the required capacity of the relieving device at each station shall [must] be made, at intervals not exceeding fifteen (15) months, but at least once each calendar year. [and] These required capacities shall be compared with the rated or experimentally determined relieving capacity of the device for [the] operating conditions under which it works. After initial calculations, subsequent calculations are not required if review

documents show that parameters have not changed to cause capacity to be less than required.

(c) If the relieving device is of insufficient capacity, a new or additional device shall [must] be installed to provide the additional capacity required.

(24) Valve maintenance: transmission lines. Each transmission line valve that might be required during any emergency shall [must] be inspected and partially operated, at intervals not exceeding fifteen (15) months, but at least once each calendar year.

(25) Valve maintenance: distribution systems. Each valve, the use of which may be necessary for [the] safe operation of a distribution system, shall [must] be checked and serviced, at intervals not exceeding fifteen (15) months, but at least once each calendar year.

(26) Vault maintenance.

(a) Each vault housing pressure regulating and pressure limiting equipment, and having [a] volumetric internal content of 200 cubic feet or more, shall [must] be inspected at intervals not exceeding fifteen (15) months, but at least once each calendar year to determine that it is in good physical condition and adequately ventilated.

(b) Inspection of each vault, its cover, and equipment shall include checks for proper ventilation, function, and safety. Any leaks shall be corrected immediately. [If gas is found in the vault, the equipment in the vault must be inspected for leaks, and any leaks found must be repaired.]

[(c) The ventilating equipment must also be inspected to determine that it is functioning properly.]

[(d) Each vault cover must be inspected to assure that it does not present a hazard to public safety.]

(27) Prevention of accidental ignition. Each utility shall take steps to minimize the danger of accidental gas ignition [of gas] in any structure or area where [the] presence of gas constitutes a hazard of fire or explosion, including the following:

(a) When a hazardous amount of gas is being vented into open air, each potential source of ignition shall [must] be removed from the area and a fire extinguisher shall [must] be provided.

(b) Gas or electric welding or cutting shall [may] not be performed on pipe or on pipe components that contain a combustible mixture of gas and air in the area of work.

(c) Post warning signs, where appropriate.

[(d) When a pipeline or main can be kept full of gas during a welding or cutting operation, the following procedures are recommended:]

[1. Keep a slight flow of gas moving toward the point where cutting or welding is being done.]

[2. The gas pressure at the site of the work shall be controlled by suitable material.]

[3. Close all slots or open ends immediately after they are cut, with tape, and/or rightly fitting canvas, or other suitable means.]

[4. Do not permit two (2) openings to remain uncovered at the same time. This is doubly important if the two (2) openings are at different elevations.]

(d) [(e)] No welding or acetylene cutting shall [may] be done on a pipeline, main or auxiliary apparatus that contains air if it is connected to a source of gas, unless a suitable means has been provided to prevent [the] leakage of gas into the pipeline or main.

(e) [(f)] In situations where welding or cutting must be done on facilities which are filled with air and connected to a source of gas and precautions recommended above cannot be taken, one (1) or more of the following precautions, depending upon circumstances at the job, are required:

1. Purging [the] pipe or equipment upon which welding or cutting is to be done, with combustible gas or inert gas.

2. Testing of the atmosphere in the vicinity of the zone to be heated before [the] work is started and at intervals as the work progresses, with a combustible gas indicator or by other suitable means.

3. Careful verification before [the] work starts that [the] valves that isolate the work from a source of gas do not leak.

(f) [(g)] When the main is to be separated a bonding conductor shall [must] be installed across the point of separation and maintained while the pipeline is separated. If overhead electric transmission lines parallel the pipeline right-of-way, the current carrying capacity of the bonding conductor should be at least one-half (1/2) of the capacity of the overhead line conductors.

(g) [(h)] For additional purging procedures see A.G.A. publication "Purging Principals and Practices" (1975 Edition.)

(28) Caulked bell and spigot joints.

(a) Each cast iron caulked bell and spigot joint [that is] subject to pressures of twenty-five (25) psig or more shall [must] be sealed with:

1. A mechanical leak clamp; or

2. A material or device which:

a. Does not reduce [the] flexibility of the joint;

b. Permanently bonds, either chemically or mechanically, or both, with the bell and spigot metal surfaces or adjacent pipe metal surfaces; and

c. Seals and bonds in a manner that meets the strength, environmental, and chemical compatibility requirements of Section 2(2)(a) and (b) and Section 4(2) of this regulation.

(b) Each cast iron caulked bell and spigot joint [that is] subject to pressures of less than twenty-five (25) psig and [is] exposed for any reason, shall [must] be sealed by [a] means other than caulking.

(29) Protecting cast iron pipelines. When a utility has knowledge that the support for a segment of a buried cast iron pipeline is disturbed:

(a) That segment of [the] pipeline shall [must] be protected[, as necessary,] against damage during the disturbance by:

1. Vibrations from heavy construction equipment, trains, trucks, buses, or blasting;

2. Impact forces by vehicles;

3. Earth movement;

4. Apparent future excavations near the pipeline; or

5. Other foreseeable outside forces which may subject that segment of [the] pipeline to bending stress.

(b) As soon as feasible, [appropriate steps must be taken to provide] permanent protection shall be provided for the disturbed segment from damage that might result from external loads, including compliance with applicable requirements of subsections (10)(a) and (11) of

Section 7 and subsection (6)(b) through (d) of Section 9 of this regulation.

Section 15. Purity of Gas. (1) All gas supplied to customers shall contain no more than: a trace of hydrogen sulfide, thirty (30) grains of total sulphur per 100 cubic feet; or five (5) grains of ammonia per 100 cubic feet. No gas shall contain impurities which may cause excessive corrosion of mains or piping or form corrosive or harmful fumes when burned in a properly designed and adjusted burner.

(2) When necessary, tests for the presence of hydrogen sulfide shall be made at least once each day, except Sundays and holidays, with the standard lead acetate paper method. Results of [shown by] these test papers shall be properly recorded and filed, as specified by the commission.

(3) Manufactured and mixed gas shall be tested at least once each month for the presence of total sulphur and ammonia, except that any gas containing no coal gas need not be tested for ammonia. Approved methods of testing shall be used. Records of all tests shall be preserved as specified by the commission.

Section 16. Heating Value of Gas. (1) Definitions of heating value. The heating value of [a] gas is the number of British Thermal Units (BTUs) produced by the combustion at constant pressure, of that amount of gas which would occupy a volume of one (1) cubic foot at a temperature of sixty (60) degrees Fahrenheit, if saturated with water vapor and under [a] pressure equivalent to [that of] thirty (30) inches of mercury [(the mercury being] at a temperature of thirty-two (32) degrees Fahrenheit and under gravity[)], with air of the same temperature and pressure as the gas, when the products of combustion are cooled to the initial temperature of the gas and air, and when the water formed by combustion is condensed to [the] liquid stage.

(2) Each utility shall establish and maintain a standard heating value for its gas. The heating value standard adopted shall comply with the following:

(a) It shall be consistent with good service.

(b) It shall be that value which the utility determines is [the] most practical and economical to supply to its customers.

(3) Each utility shall file with the commission its standard heating value as part of its schedule of Rates, Rules and Regulations.

(4) The utility shall maintain the heating value of the gas with as little variation as [is] practicable, but this [such] variation shall not be more than five (5) percent above or [five (5) percent] below the established standard heating value.

(5) The heating value standard shall be the monthly average heating value of [the] gas [as] delivered to customers at any point within one (1) mile of the center of distribution, and shall be obtained in the following manner: [-the] results of all tests for heating value made on any day during the calendar month shall be averaged, and the average of all such daily averages shall be used in computing the monthly average.

(6) Each utility, selling more than 300,000,000 cubic feet of gas annually, shall maintain a calorimeter, gas chromatograph, or other [device or] equipment for testing the hearing value of [the] gas or shall retain the services of a competent testing laboratory approved by the commission. This testing [Such device or] equipment owned by the utility shall be subject to [the] approval of the commission and be made available for testing certification. Utilities served directly from a transmission line shall be exempt from this rule if there is [an] approved [device or] equipment for measuring the heating value of [the] gas maintained by the transmission company and if such [device or] equipment is available for testing and certification by the commission.

(7) Each utility shall conduct [make such] test and maintain necessary records to document [satisfy to the commission] that the requirements of this section are being met. Those utilities which bill on the basis of heating value shall, as part of its schedule of Rates, Rules and Regulations, file with the commission the schedule of tests and test procedure(s) it will conduct [in order] to determine the heating value of its gas.

(8) Any change in [the] heating value greater than that allowed in subsection (4) of this section shall not be made without [the] approval of the commission and without adequate notice to [the] affected customers. In such event, the utility shall make any adjustments to the customer's appliances without charge and shall conduct the adjustment program with a minimum of inconvenience to the customer.

[(9) Whenever the standard heating value of the gas supplied is changed sufficiently to necessitate readjustment of appliances, it shall be incumbent upon the utility to properly adjust the customer's appliances for the new heating value.]

[(10) Where any unusual conditions exist, any utility may apply to the commission to be relieved, in part, of the requirements of this section.]

Section 17. Waste. All practices in the production, distribution, consumption, or use of natural gas which are wasteful[, such as flambeau lights and the like,] are hereby expressly prohibited.

Section 18. Deviations from Rules. In special cases for good cause shown [upon application to and approved by] the commission may permit deviations from these rules.

APPENDIX A
INCORPORATED BY REFERENCE

I. List of Organizations and Addresses.

A. American National Standards Institute (ANSI), 1430 Broadway, New York, N.Y. 10018.

B. American Petroleum Institute (API), 1801 K Street N.W., Washington, D.C. 20006 or 300 Corrigan Tower Building, Dallas, Texas 75201.

C. [The] American Society of Mechanical Engineers (ASME), United Engineering Center, 345 East 47th Street, New York, N.Y. 10017.

D. American Society for Testing and Material (ASTM), 1916 Race Street, Philadelphia, Pa. 19103.

E. Manufacturers Standardization Society of the Valve and Fittings Industry (MSS), 5203 Leesburg Pike, Suite 502,

Falls Church, Va. 22041.

F. National Fire Protection Association (NFPA), Batterymarch Park, Quincy, Massachusetts 02269.

II. Documents incorporated by reference. Numbers in parenthesis indicate applicable editions.

A. American Petroleum Institute:

[(1) API Specification 5A "API Specification for Casing, Tubing, and Drill Pipe" (1979).]

[(2) API Specification 6A "API Specification for Wellhead Equipment" (1979).]

(1) [(3)] API Specification 6D "API Specification for Pipeline Valves" (1977).

(2) [(4)] API Specification 5L "API Specification for Line Pipe" (1980).

[(5) API Specification 5LS "API Specification for Spiral-Weld Line Pipe" (1980).]

[(6) API Specification 5LX "API Specification for High-Test Line Pipe" (1980).]

(3) [(7)] API Recommended Practice 5L1 "API Recommended Practice for Railroad Transportation of Line Pipe" (1972).

(4) [(8)] API Standard 1104 "Standard for Welding Pipelines and Related Facilities" (17th Edition, 1988) [(1980)].

B. [The] American Society for Testing and Materials:

(1) ASTM Specification A53 "Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated Welded and Seamless" (A53-79).

(2) ASTM Specification A106 "Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service" (A106-79b).

[(3) ASTM Specification A134 "Standard Specification for Electric-Fusion (Arc)-Welded Steel Plate Pipe, Sizes 16 in. and over" (A134-74).]

[(4) ASTM Specification A135 "Standard Specification for Electric-Resistance-Welded Steel Pipe" (A135-79).]

[(5) ASTM Specification A139 "Standard Specification for Electric-Fusion (Arc)-Welded Steel Pipe (Sizes 4 in. and over" (A134-74).]

(3) [(6)] ASTM Specification A671 "Electric-Fusion-Welded Steel Pipe for Atmospheric and Lower Temperatures" (A671-77).

(4) [(7)] ASTM Specification A672 "Electric-Fusion-Welded Steel Pipe for High-Pressure Service at Moderate Temperatures" (A672-79).

(5) [(8)] ASTM Specification A691 "Carbon and Alloy Steel Pipe, Electric-Fusion-Welded for High-Pressure Service at High Temperatures" (A169-79).

[(9) ASTM Specification A211 "Standard Specification for Spiral-Welded Steel or Iron Pipe" (A211-75).]

(6) [(10)] ASTM Specification A333 "Standard Specification for Seamless and Welded Steel Pipe for Low Temperature Service" (A333-79).

(7) [(11)] ASTM Specification A372 "Standard Specification for Carbon and Alloy Steel Forgings for Thin-Walled Pressure Vessels" (A372-78).

[(12) ASTM Specification A377 "Standard Specification for Grey Iron and Ductile Iron Pressure Pipe" (A377-79).]

(8) [(13)] ASTM Specification A381 "Standard Specification for Metal-Arc-Welded Steel Pipe for Use with High-Pressure Transmission Systems" (A381-79).

[(14) ASTM Specification A539 "Standard Specification for Electric Resistance-Welded Coiled Steel Tubing for Gas and Fuel Oil Lines" (A539-79).]

[(15) ASTM Specification B42 "Standard Specification for Seamless Copper Pipe, Standard Sizes" (B42-80).]

[(16) ASTM Specification B68 "Standard Specification for Seamless Copper Tube, Bright Annealed" (B68-80).]

[(17) ASTM Specification B75 "Standard Specification for Seamless Copper Tube" (B75-80).]

[(18) ASTM Specification B88 "Standard Specification for Seamless Copper Water Tube" (B88-80).]

[(19) ASTM Specification B251 "Standard Specification for General Requirements for Wrought Seamless Copper and Copper-Alloy Tube" (B251-76).]

(9) [(20)] ASTM Specification D638 "Standard Test Method for Tensile Properties of Plastic" (D368-77a).

(10) [(21)] ASTM Specification D900 "Standard Method Test for Caloric Value of Gaseous Fuels by the Water Flow Calorimeter" (D900-55-1974 Edition).]

(11) [(22)] ASTM Specification D2513 "Standard Specification for Thermoplastic Gas Pressure Pipe, Tubing, and Fittings" (D2513-87 [91]).

(12) [(23)] ASTM Specification D2517 "Standard Specification for Reinforced Epoxy Resin Gas Pressure Pipe and Fittings" (D2517-73) (Reapproved 1979).

C. [The] American National Standards Institute, Inc.:

[(1) ANSI A21.11 "Rubber-Gasket Joints for Ductile-Iron, and Gray Iron Pressure Pipe and Fittings" (A21.11-1979).]

[(2) ANSI A21.50 "Thickness Design of Ductile-Iron Pipe" (1976).]

[(3) ANSI A21.52 "Ductile-Iron Pipe, Centrifugally Cast, in Metal Molds or Sand-Lined Molds for Gas" (1976).]

(1) [(4)] ANSI B16.1 "Cast Iron Pipe Flanges and Flanged Fittings" (1975).

(2) [(5)] ANSI B16.5 "Steel Pipe Flanges and Flanged Fittings" (1977).

[(6) ANSI B16.24 "Bronze Pipe Flanges and Flanged Fittings" (1979).]

[(7) ANSI B36.10 "Wrought Steel and Wrought Iron Pipe" (1979).]
[(8) ANSI C101-67 "Thickness Design of Cast-Iron Pipe" (C101-67-1977).]

D. [The] American Society of Mechanical Engineers:
(1) ASME Boiler and Pressure Code, Section VIII "Pressure Vessels Division I" (1977).
(2) ASME Boiler and Pressure Vessel Code, Section IX "Welding Qualifications" (1977).

E. Manufacturer's Standardization Society of the Valve and Fittings Industry:
[(1) MSS SP-25 "Standard Marking System for Valves, Fittings, Flanges, and Unions" (1978).]
(1) [(2)] MSS SP-44 "Steel Pipe Line Flanges" (1975).
[(3) MSS SP-70 "Cast-Iron Gate Valves, Flanged and Threaded Ends" (1976).]
[(4) MSS SP-71 "Cast-Iron Swing Check Valves, Flanged and Threaded Ends" (1976).]
[(5) MSS SP-78 "Cast-Iron Plug Valves" (1977).]

F. National Fire Protection Association:
(1) NFPA Standard 30 "Flammable and Combustible Liquids Code" (1977).
(2) NFPA Standard 54 "National Fuel Gas Code" (1980).
(3) NFPA Standard 58 "Standard for the Storage and Handling of Liquefied Petroleum Gases" (1979).
(4) NFPA Standard 59 "Standards for the Storage and Handling of Liquefied Petroleum Gases at Utility Gas Plants" (1979).
(5) NFPA Standard 59A "Storage and Handling Liquefied Natural Gas" (1979).
(6) "National Electrical Code" NFPA-70 (ANSI) (1978).

G. National Bureau of Standards:
(1) Circular No. 48 "Standard Methods of Gas Testing" (1916).
(2) Research Paper No. 1741 "Testing Large Capacity Rotary Gas Meters," National Bureau of Standards Journal of Research, September, 1946.

APPENDIX B
QUALIFICATION OF PIPE

I. Listed Pipe Specifications. Numbers in parentheses indicate applicable editions.

API 5L - Steel Pipe (1980).
[API 5LS - Steel Pipe (1980).
API 5LX - Steel Pipe (1980).]
ASTM A53 - Steel Pipe (1979).
ASTM A106 - Steel Pipe (1979).
[ASTM A134 - Steel Pipe (1974).
ASTM A135 - Steel Pipe (1979).
ASTM A139 - Steel Pipe (1974).
ASTM A211 - Steel and Iron Pipe (1975).]
ASTM A333 - Steel Pipe (1979).
[ASTM A377 - Cast Iron Pipe (1979).]
ASTM A381 - Steel Pipe (1979).
[ASTM A539 - Steel Tubing (1979).]
ASTM Specification A671 - Steel Pipe (1977).
ASTM Specification A672 - Steel Pipe (1979).
[ASTM Specification A691 - Steel Pipe (1979).
ASTM B42 - Copper Pipe (1980).
ASTM B68 - Copper Tubing (1980).
ASTM B75 - Copper Tubing (1980).
ASTM B88 - Copper Tubing (1980).
ASTM B251 - Copper Pipe and Tubing (1976).]
ASTM D2513 - Thermoplastic Pipe and Tubing (1987 [1981]).
ASTM D2517 - Thermoplastic Plastic Pipe and Tubing (1973).
[ASTM A21.52 - Ductile Iron Pipe (1971).]

II. Steel pipe of unknown or unlisted specification.

A. Bending Properties. For pipe two (2) inches or less in diameter, a length of pipe shall [must] be cold bent through at least ninety (90) degrees around a cylindrical mandrel that has a diameter twelve (12) times the diameter of the pipe, without developing cracks at any portion and without opening the longitudinal weld.
[For] Pipe more than two (2) inches in diameter shall [, the pipe must] meet the requirements of the flattening test set forth in ASTM A53, except that the number of tests shall [must] be at least equal to the minimum required in paragraph 11-D of this appendix to determine yield strength.

B. Weldability. A girth weld shall [must] be made in [the] pipe by a welder who is qualified under Subpart E of this part. The weld shall [must] be made under the most severe conditions under which welding will be allowed in the field and by [means of] the same procedure that will be used in the field. On pipe more than four (4) inches in diameter, at least one (1) test weld shall [must] be made for each 100 lengths of pipe. On pipe four (4) inches or less in diameter, at least one (1) test weld shall [must] be made for each 400 lengths of pipe. The weld shall [must] be tested in accordance with API Standard 1104. If requirements of API Standard 1104 cannot be met, weldability may be established by making chemical test for carbon and manganese, and proceeding in accordance with Section IX of the ASME Boiler and Pressure Vessel Code. The same number of chemical tests shall [must] be made as are required for testing a girth weld.

C. Inspection. [The] Pipe shall [must] be clean enough to permit adequate inspection. It shall [must] be visually inspected to ensure that it is reasonably round and straight and there are no defects which might impair [the] strength or tightness of the pipe.

D. Tensile Properties. If the pipe's tensile properties [of the pipe] are not known, [the] minimum yield strength may be taken as 24,000 psig or less, or [the] tensile properties may be established by performing tensile tests as set forth in API Standard 5LX. All test specimens shall be selected at random and the following number of tests must be performed:

NUMBER OF TENSILE TEST - ALL SIZES	
10 lengths or less	1 set of tests for each length.
11 lengths to 100 lengths	1 set of tests for each 5 lengths, but not less than 10 tests.
Over 100 lengths	1 set of tests for each 10 lengths, but not less than 10 tests.

If the yield-tensile ratio, based on [the] properties determined by those tests, exceeds 0.85, [the] pipe may be used only as provided in 192.55(c).

III. Steel pipe manufactured before November 12, 1970, to earlier editions of listed specifications. Steel pipe manufactured before November 12, 1970, in accordance with a specification of which a later edition is listed in Section 1 of this appendix, is qualified for use under this part if the following requirements are met:

A. Inspection. [The] Pipe shall [must] be clean enough for inspection [to be inspected] to ensure that it is reasonably round and straight and that there are no defects which might impair [the] strength or tightness of the pipe.

B. Similarity of specification requirements. The edition of the listed specification under which [the] pipe was manufactured shall [must] have substantially the same requirements with respect to the following properties as a later edition of that specification listed in Section I of this appendix:

(1) Physical (mechanical) properties of pipe, including yield and tensile strength, elongation, and yield to tensile ratio, and testing requirements to verify those properties.

(2) Chemical properties of pipe and testing requirements to verify those properties.

C. Inspection or test of welded pipe. On pipe with welded seams, one (1) of the following requirements shall [must] be met:

(1) The edition of the listed specification to which the pipe was manufactured shall [must] have substantially the same requirements with respect to nondestructive inspection of welded seams and the standards for acceptance or rejection and repair as a later edition of the specification listed in Section I of this appendix.

(2) [The] Pipe shall [must] be tested in accordance with Subpart J of this part to at least 1.25 times [the] maximum allowable operating pressure if it is to be installed in a Class 1 location and to at least 1.5 times [the] maximum allowable operating pressure if it is to be installed in a Class 2, 3, or 4 location. Notwithstanding any shorter time period permitted under Subpart J of this part, [the] test pressure shall [must] be maintained for at least eight (8) hours.

APPENDIX C
QUALIFICATION OF WELDERS FOR LOW STRESS LEVEL PIPE

I. Basic test. [The] Test shall be [is] made on pipe twelve (12) inches or less in diameter. The test weld shall [must] be made with [the] pipe in [a] horizontal fixed position so that [the] test weld includes at least one (1) section of overhead position welding. [The] Beveling, root opening, and other details shall [must] conform to the specification of the procedure under which the welder is being qualified. Upon completion, [the] test weld shall be [is] cut into four (4) coupons and subjected to a root bend test. If [as a result of this test,] two (2) or more of the four (4) coupons then develop a crack more than 1/8 inch long in any direction in the weld material, or between [the] weld material and base metal, [that is more than one-eighth (1/8) inch long in any direction,] the weld shall be [is] unacceptable. Cracks that occur on the specimen corner [of the specimen] during testing are not considered.

II. Additional tests for welders of service line connections to mains. A service line connection fitting shall be [is] welded to a pipe section with the same diameter as a typical main. The weld shall be [is] made in the same position as it is made in the field. The weld shall be [is] unacceptable if it shows a serious undercutting or if it has rolled edges. the weld shall be [is] tested by attempting to break the fitting off the run pipe. The weld shall be [is] unacceptable if it breaks and shows incomplete fusion, overlap, or poor penetration at [the] junction of the fitting and run pipe.

III. Periodic tests for welders of small service lines. Two (2) samples of the welder's work, each about eight (8) inches long with the weld [located] approximately centered, shall be [in the center, are] cut from steel service line and tested as follows:

(1) One (1) sample shall be [is] centered in a guilded bend testing machine and bent to the die contour [of the die] for [a distance of] two (2) inches on each side of the weld. If the sample shows any break or cracks after removal from the bending machine, it shall be [is] unacceptable.

(2) The ends of the second sample shall be [are] flattened and the entire joint subjected to a tensile strength test. If failure occurs adjacent to or in the weld metal, the weld shall be [is] unacceptable. If a tensile strength testing machine is not available, this sample shall

[must] also pass the bending test prescribed in subparagraph (1) of this paragraph.

APPENDIX D
CRITERIA FOR CATHODIC PROTECTION
AND DETERMINATION OF MEASUREMENTS

I. Criteria for cathodic protection:
A. Steel, cast iron, and ductile iron structures.
(1) [A] Negative (cathodic) voltage of at least 0.85 volt, with reference to a saturated copper-copper sulfate half cell. Determination of this voltage shall [must] be made with the protective current applied, and in accordance with Sections II and IV of this appendix.
(2) [A] Negative (cathodic) voltage shift of at least 300 millivolts. Determination of this voltage shift shall [must] be made with the protective current applied, and in accordance with Sections II and IV of this appendix. This criterion of voltage shift applies to structures not in contact with metal of different anodic potentials.
(3) [A] Minimum negative (cathodic) polarization voltage shift of 100 millivolts. This polarization voltage shift shall [must] be determined in accordance with Sections III and IV of this appendix.
(4) [A] Voltage at least as negative (cathodic) as that originally established at the beginning of the Tafel segment of the E-log-I curve. This voltage shall [must] be measured in accordance with Section IV of this appendix.
(5) [A] Net protective current from the electrolyte into the structure surface as measured by an earth current technique applied at predetermined current discharge (anodic) points of the structure.
B. Aluminum structures.
(1) Except as provided in paragraphs (3) and (4) of this paragraph, a minimum negative (cathodic) voltage shift of 150 millivolts, produced by the application of protective current. The voltage shift shall [must] be determined in accordance with Sections II and IV of this appendix.
(2) Except as provided in paragraphs (3) and (4) of this paragraph, a minimum negative (cathodic) polarization voltage shift of 100 millivolts. This polarization voltage shift shall [must] be determined in accordance with Sections III and IV of this appendix.
(3) Notwithstanding the alternative minimum criteria in paragraphs (1) and (2) of this paragraph, aluminum, if cathodically protected at voltages in excess of 1.20 volts as measured with reference to a copper-copper sulfate half cell, in accordance with Section IV of this appendix, and compensated for the voltage (IR) drops other than those across the structure-electrolyte boundary may suffer corrosion resulting from the buildup of alkali on the metal surface. A voltage in excess of 1.20 volts shall [may] not be used unless previous test results indicate no appreciable corrosion will occur in the particular environment.
(4) Since aluminum may suffer from corrosion under high pH conditions, and since application of cathodic protection tends to increase the pH at the metal surface, careful investigation or testing shall [must] be made before applying cathodic protection to stop pitting attach on aluminum structures in environments with a natural pH in excess of eight (8).
C. Copper structures. [A] Minimum negative (cathodic) polarization voltage shift of 100 millivolts. This polarization voltage shift shall [must] be determined in accordance with Sections III and IV of this appendix.
D. Metal of different anodic potentials. [A] Negative (cathodic) voltage, measured in accordance with Section IV of this appendix, equal to that required for the most anodic metal in the system shall [must] be maintained. If amphoteric structures are involved that could be damaged by high alkalinity covered by paragraphs (3) and (4) of paragraph B of this section, they shall [must] be electrically isolated with insulating flanges or their equivalent.

II. Interpretation of voltage measurement. Voltage (IR) drops other than those across the structure-electrolyte boundary shall [must] be considered for valid interpretation of the voltage measurement in paragraphs A(1) and (2) and paragraph B(1) of Section I of this appendix.

III. Determination of polarization voltage shift. [The] Polarization voltage shift shall [must] be determined by interrupting the protective current and measuring [the] polarization decay. When the current is initially interrupted, an immediate voltage shift occurs. The voltage reading after the immediate shift shall [must] be used as the base reading from which to measure polarization decay in paragraphs A(3), B(2), and C of Section I of this appendix.

IV. Reference half cells.
A. Except as provided in paragraphs B and C of this section, negative (cathodic) voltage shall [must] be measured between the structive surface and a saturated copper-copper sulfate half cell contacting the electrolyte.

B. Other standard reference half cells may be substituted for the saturated copper-copper sulfate half cell. Two (2) commonly used reference half cells are listed below along with their voltage equivalent to -0.85 volt as referred to a saturated copper-copper sulfate half cell:
   (1) Saturated KCl calomel half cell: -0.78 volt.
   (2) Silver-silver chloride half cell used in sea water: -0.80 volt.

C. In addition to the standard reference half cell, an alternate metallic material or structure may be used in place of the saturated copper-copper sulfate half cell if its potential stability is assured and if its voltage equivalent referred to a saturated copper-copper sulfate half cell is established.

GEORGE EDWARD OVERBEY, JR., Chairman
THEODORE T. COLLEY, Secretary
APPROVED BY AGENCY: February 14, 1990
FILED WITH LRC: February 15, 1990 at 11 a.m.

PUBLIC HEARING: A public hearing on this regulation shall be held on March 21, 1990, at 10 a.m. at the Public Service Commission's office, Hearing Room No. 1, 730 Schenkel Lane, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by March 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 received. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Lee M. MacCracken, Executive Director, Public Service Commission, 730 Schenkel Lane, P.O. Box 615, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Lee M. MacCracken

(1) Type and number of entities affected: This regulation prescribes minimum safety and service standards for the 66 natural gas utilities under the jurisdiction of the Public Service Commission of Kentucky. The total number of gas utilities required to comply with this regulation, as amended, will neither increase nor decrease.

(a) Direct and indirect costs or savings to those affected: In addition to substantial rewording to comply with KRS 13A.222, this regulation has been amended to reflect changes in federal law and regulations pertaining to pipeline safety and enforcement by the U.S. Department of Transportation, Office of Pipeline Safety. The changes made to comport with the federal law are technical in nature and are made pursuant to the Pipeline Safety Act of 1968, Section 5(a) Certification Agreement between the Kentucky Public Service Commission and the Office of Pipeline Safety.

1. First year: Changes made to comport with the federal mandate are clarifications of existing provisions with a few exceptions noted below. The clarifications do not result in any increased costs or savings the first year to the utilities regulated. Section 11(2)(d) has additional language which requires a utility to leak test pipeline joints at not less than the operating pressure for that pipeline. This requirement could result in increased costs to the utility for conducting leak tests at joints, but as a practical matter merely sets a minimum standard since it is now common in the industry to test these joints in the manner proposed.

Section 13(3)(f) requires a utility to include instructions for its personnel enabling them to identify safety related conditions which must be reported to the commission. Entities affected will expend additional labor to both develop the instructions and train personnel the first year.

Changes made by the agency at Section 8(2)(c) require the utility to seek approval of the agency prior to making charges to customers for gas meters. This requirement makes it mandatory that private arrangements mutually agreed upon between the utility and the customer will be effective only after commission approval and is made pursuant to KRS 278.160.

Changes at Section 8(3)(a)1, Section 8(5)(c), Section 8(17)(a)2, Section 13(17)(g), and Section 14(22)(c) all provide alternatives to the utility which should result in greater flexibility to the utility in operating a gas system. All of those changes with the exception of Section 8(3)(a)1 and Section 14(22)(c) may result in increased costs associated with filings necessary to obtain commission approval to implement the alternative, however, implementation of the alternative itself may result in savings to the utility since the least cost alternative could be selected.

2. Continuing costs or savings: First-year costs or savings to the utility will continue thereafter.

3. Additional factors increasing or decreasing costs (note any effects upon competition): The amendments to this regulation will neither increase nor decrease competition, nor result in increasing or decreasing costs other than those noted above.

(b) Reporting and paperwork requirements: Paperwork requirements will increase only in those instances (identified above) where the utility selects an alternative which must be approved by the agency. Reporting requirements under Section 7(3) have been decreased since monthly construction progress reports will no longer be required. All other reporting requirements continue essentially unchanged.

(2) Effects on the promulgating administrative body: Since all utilities affected by this regulation are subject to the jurisdiction of this agency, the changes in this regulation will have little or no effect on the agency.

(a) Direct and indirect costs or savings: There are no direct or indirect costs or savings.

1. First year: There are no direct or indirect costs or savings the first year.

2. Continuing costs or savings: There are no continuing costs or savings.

3. Additional factors increasing or decreasing costs: No additional factors increase or decrease costs.

(b) Reporting and paperwork requirements:

Reporting requirements of the agency will not change. Paperwork requirements may increase slightly due to utilities seeking agency approval for alternative methods; however, paperwork requirements will decrease since the requirements to file certain periodic reports has been eliminated. Other amendments to this regulation allow for the filings in lieu of other filings which has no net effect on paperwork for the agency.

(3) Assessment of anticipated effect on state and local revenues: The amendment of this regulation affects only private gas utilities and there is no anticipated effect on state and local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Changes made pursuant to changes in federal law are required by the federal government in order for the agency to keep its certification under Section 5(a) of the Pipeline Safety Act of 1968, so no alternatives could be considered. Changes made by the agency do, in most respects, reflect alternative methods which are acceptable to the agency and to the utilities.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: The agency is unaware of any statute, administrative regulation or government policy which is in conflict, overlaps or duplicates any proposed amendment.

(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: No effort was made to harmonize the regulation since there is no conflict.

(6) Any additional information or comments: The amendments proposed by the agency are, for the most part, changes which have been requested by the gas industry, over a period of time.

TIERING: Was tiering applied? No. Tiering was not possible since all gas systems are subject to this regulation.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. The federal statute and regulation constituting the federal mandate are 49 App. USC §1672, 1804 and 49 CFR, Part 192, Amendment Nos. 47 through 64, March 1984 through July 1989.

2. State compliance standards. This regulation proscribes minimum safety and service statutes for natural gas utilities operating under the jurisdiction of the Kentucky Public Service Commission.

3. Minimum or uniform standards contained in the federal mandate. The federal regulation proscribes minimum safety and service statutes for natural gas utilities.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The administrative regulation imposes neither stricter, additional, or different requirements than the federal. The federal regulation has been adopted with no changes.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.

PUBLIC PROTECTION & REGULATION CABINET
Public Service Commission
(Proposed Amendment)

807 KAR 5:026. Gas service; gathering systems.

RELATES TO: KRS Chapter 278
STATUTORY AUTHORITY: KRS 278.485(3)
NECESSITY AND FUNCTION: KRS 278.485(1) provides that gas service shall be furnished at rates and charges as determined by the commission. KRS 278.485(3) requires that [the] installation and standards of safety for [the] installation of service lines may be prescribed by the commission. This regulation establishes [the] rules which apply to service from natural gas gathering pipeline systems.

Section 1. Definitions. For purposes of this regulation:

(1) "Commission" means [the] Public Service Commission.

(2) [(7)] "Customer meter" means the meter that measures the transfer of gas from [a] gas company to [a] consumer.

(3) "Customer piping" means [the] section(s) of [the] natural gas piping owned by the customer as established by Section 3 of this regulation.

(4) [(8)] "Gas company" means the owner of any producing gas well [and/]or gathering line.

(5) [(2)] "Gathering line" means any pipeline gathering gas from a producing gas well excluding pipelines on the discharge side of compressor stations.

(6) "Interior fuel gas piping" means the line from [the] point of entry into the building to [the] point or points of utilization.

(7) [(4)] "Service line" means a line that transports gas from a gathering line to:

(a) A customer meter or the connection to a customer's piping, whichever is farther downstream; or

(b) The connection to a customer's piping if there is no customer meter.

(8) [(5)] "Yard line" means a line that transports gas from:

(a) A customer meter or the connection to a customer's piping, whichever is farther downstream; or

(b) The connection to a customer's piping if there is no customer meter to [the] point of entry into the building.

Section 2. Construction Standards. Instances not covered by this regulation shall [must] meet, where applicable, the requirements of the "American National Standard Code for Pressure Piping, Gas Transmission and Distribution Piping Systems (ANSI B31.8)" 1982 [1975] edition as published by the American Society of Mechanical Engineers, United Engineering Center, 345 East 47th Street, New York, N. Y. 10017 herein incorporated by reference. Copies are available at the Commission office, 730 Schenkel Lane, P.O. Box 615, Frankfort, Kentucky 40602.

Section 3. Requirements for Service. (1) Persons desiring gas service under KRS 278.485 shall file applications at the local gas company office. Applications [, which] shall contain the following information:

(a) Name and address of [the] applicant.

(b) Purpose for which gas is requested.

(c) Name and address of contractor installing

service or yard line and other facilities required to be furnished by applicant.

(d) Name and address of gas company from which service is requested.

(2) Gas company shall furnish applicant with construction drawing showing installation and material meeting the company's specifications as approved by the commission for service installation.

(3) After receipt of the application, the gas company shall furnish a copy to the commission. [in Frankfort the name and address of the applicant and forward a copy of the application to the commission's representative in that area.]

(4) Applicant's gas service or yard line shall be inspected and approved by [the] commission staff [representative] before service is commenced. No service or yard line shall [will] be inspected for which an application has not been received.

(5) The commission shall [will] notify the applicant by mail if the service or yard line does not meet the requirements of its rules and regulations. If [the] defects are not corrected within the time permitted, the commission shall [will] notify the gas company and the application shall be discontinued by the company until the [such] defects are corrected.

(6) The gas company shall furnish, install and maintain the meter which shall remain its property.

(7) The service tap including saddle and first service shutoff valve shall be installed by the gas company and shall remain its property unless other provisions are made by tariff approved by the commission.

(8) All other approved equipment and material required for such service shall be furnished, installed and maintained by applicant at his expense and shall remain applicant's property.

(9) If leaks or other hazardous conditions are detected in the service or yard line, the gas company shall discontinue service until such leaks or other hazardous conditions are repaired or remedied by customer.

Section 4. Connections to High Pressure Gathering Lines. (1) Connections shall be [two (2) inches or less in diameter but] smaller than the diameter of the gathering line.

(2) Connections shall be on the upper one-half (1/2) of the pipe surface, preferably at an angle of forty-five (45) degrees.

(3) Connections shall be at right angles to the center line of the gathering line.

(4) A service shutoff shall immediately follow the connection to the gathering line.

(5) A drip tank shall be installed preceding [the] regulating equipment, but may be omitted upon approval of [the] commission staff [representative].

Section 5. Control and Limiting of Gas Pressure. (1) When maximum pressures may exceed sixty (60) p.s.i. a service regulator and a secondary regulator located upstream from the service regulator shall be installed. [The] Regulators shall be spring type, and the secondary regulator shall in no case be set to maintain [a] pressure higher than sixty (60) p.s.i. A spring type relief valve shall be installed to limit [the] pressure on the inlet of the service regulator to sixty (60) p.s.i. or less in case the secondary regulator fails to function properly.

(2) Every service line shall be equipped with an adequate spring type relief valve. The valve may be part of the final stage regulator.

(3) Regulators shall not be bypassed.

(4) Each relief valve shall be vented into [the] outside air.

(5) Vents shall be covered to prevent water and insects from entering.

(6) All metering and regulating equipment shall be as near to the gathering line as practicable, in accordance with safe and accepted operating practices.

(7) Regulating equipment shall be properly protected by the applicant.

Section 6. Service or Yard Lines and Metering Facilities. (1) The customer shall furnish and install the service or yard line from tap to point of utilization. The customer shall also secure all rights-of-way, railroad, highway and other crossing permits. The customer's service line shall be laid on undisturbed or well compacted soil in a separate trench avoiding all structures and hazardous locations. No structure shall be erected over the service or yard line.

(2) No branch tee or other connection shall be permitted on the line to serve any user other than the applicant [except] without [the] prior written consent of the gas company and the applicant, in which event [the] service to each user shall have an automatic shutoff valve with manual reset located on the riser in a horizontal position. Such shutoff valve shall have [an] operating pressure of eight (8) ounces with a shutoff pressure setting of not less than two (2) ounces.

(3) Service or yard lines shall be constructed [so as] to avoid subsurface structures but in no case shall service lines be constructed within a distance of less than thirty-six (36) inches from any subsurface structure [or parallel thereto closer than thirty-six (36) inches].

(4) Service or yard lines shall be leak checked by the gas company prior to being placed into service. If feasible the service line connection to main shall [must] be included in the test; if not feasible, it shall [must] be given a leakage test at the operating pressure when placed into service. Service or yard lines shall be tested by the company with [must be given a leak test at a pressure of at least 150 percent of the maximum operating pressure or fifty (50) p.s.i. whichever is greater using natural gas, inert gas, or] air, natural gas or inert gas to fifty (50) psig for at least [as the test medium. The test pressure shall be maintained for] thirty (30) minutes [after stabilizing].

(5) Service or yard lines shall be purged after testing to remove any air accumulations.

(6) Metering pressure shall not exceed eight (8) ounces per square inch or .5 psig, or as otherwise approved by the commission.

(7) Steel service or yard lines shall be constructed of new plant coated black steel pipe with all joints and fittings coated [and/]or taped in accordance with manufacturer's recommendations [approved procedures] from the gas meter to the outlet side of the stopcock located on the riser entering into the building and shall be of a size not less than one and one-fourth (1 1/4) inches.

(a) When the service line passes through cultivated land the trench shall be of sufficient depth to permit [a] backfill cover of

twenty-four (24) inches above the service line.

(b) Where [a] twenty-four (24) inch cover is not practical, [the] trench depth shall be sufficient to permit [a] minimum cover of eighteen (18) inches.

(8) Each steel service or yard line shall have two (2) insulating joints, one (1) of which shall follow the regulating units, the other shall separate the yard line from [the] interior fuel gas piping.

(9) Plastic service or yard lines shall be constructed of plastic pipe qualified for gas use in accordance with American Society for Testing and Material standards. Plastic service lines shall only be installed with at least twelve (12) inches of cover in private property and at least eighteen (18) inches of cover in streets and roads. When passing through cultivated land the plastic service line shall be installed with at least twenty-four (24) inches of cover. Plastic service lines shall be buried with an electrically conductive wire capable of locating the plastic line. [below ground in a trench of sufficient depth to permit a backfill cover of thirty-six (36) inches above the service line. Plastic service or yard lines shall have an electrically conductive wire or other means of locating the pipe while it is underground.] All joints in plastic service lines shall be made by persons qualified in accordance with the provisions of 49 CFR Part 192.285. No exposed plastic shall be installed above ground.

(10) Yard lines shall enter the building above [the] ground level with a shutoff valve located on the riser.

(11) Service to each customer shall have an automatic cutoff valve with manual reset to shut off gas if gas pressure fails. The valve may be part of the final stage regulator. Such a valve shall have [an] operating pressure of eight (8) ounces with [a] shutoff pressure setting of not less than two (2) ounces.

Section 7. Payment of Bills or Other Default. (1) The customer shall pay the installation charge and thereafter pay the gas company for all gas delivered at rates approved [determined therefor] by the commission. The gas company shall render statements to the customer at regular monthly or bimonthly intervals for gas delivered. These [, which said] statements shall be rendered not later than ten (10) days following each billing period. No gas company shall discontinue service to any customer for nonpayment of bills (including delayed payment charges) without first having made a reasonable effort to induce the customer to pay the bill [same]. The customer shall be given at least forty-eight (48) hours written notice, but [the] cutoff shall not be effected before fifteen (15) days after the mailing date of the original bill. Service shall not be reestablished until the customer has paid the gas company all amounts due for gas delivered plus a turn-on charge of twenty-five (25) dollars, and placed himself in full compliance with commission [the] regulations [of the commission] pertaining to such service. If [In the event] the customer fails or refuses to pay such unpaid bill(s) and turn-on charge [and/]or to comply [places himself in compliance] with commission [the] regulations [of the commission] within thirty (30) days from the date the gas is turned off, the gas company may disconnect customer's service line from its gathering line. [and] Service shall not be reestablished until the customer has complied with commission [the] regulations [of the commission] pertaining to initial service.

(2) The gas company may [shall have the right, if it so elects, to] require a cash deposit or other guaranty from the customer to secure payments of bills.

Section 8. General Provisions. The gas company shall at all times have access to [the] premises where the connection is made and the meter is located, and may [with the right to] shut off [the] gas and remove its property from said premises upon reasonable notice for any of the following reasons: [for] repairs or because of leakage; [for] nonpayment of any bills; [for] failure to make a cash deposit, if [such be] required; [for] any violation of this regulation; moving of the customer from [the] premises; [for] fraudulent tampering with the meter, regulators or connections; [for] shortage of gas or reasons of safety; [for] larceny of gas; [for] any action by a customer to secure through his meter gas for purposes other than those requested, or for any other party without [the] written consent of the gas company; or [for] false representation with respect to [the] ownership of property to which service is furnished.

Section 9. Rates and Charges. (1) Each gas company may [make and collect an initial] charge [of] $150 for each service tap, including saddle and first shutoff valve which, under this regulation, are required to be furnished and installed by the gas company. No part of this charge shall be refunded by the gas company.

(2) Each gas company shall [may] charge, for gas used, tariff rates which have been [filed and] approved by the commission, or if none, [the] current Federal Energy Regulatory Commission approved rate.

(3) [The] Provisions contained in this regulation [herein] shall apply only to connections and services made pursuant to [the provisions of] KRS 278.485 and subsequent to the effective date of this regulation.

Section 10. Deviation from Rules. In special cases for good cause shown [upon application to and approval by,] the commission may permit deviations from these rules.

GEORGE EDWARD OVERBEY, JR., Chairman
THEODORE T. COLLEY, Secretary
APPROVED BY AGENCY: February 14, 1990
FILED WITH LRC: February 15, 1990 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on March 21, 1990, at 10 a.m. at the Public Service Commission's office, Hearing Room No. 1, 730 Schenkel Lane, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by March 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 received. If you do

not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Lee M. MacCracken, Executive Director, Public Service Commission, 730 Schenkel Lane, P.O. Box 615, Frankfort, Kentucky 40602.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Lee M. MacCracken

(1) Type and number of entities affected: This regulation affects up to 175 gas producers and utilities who provide service to customers pursuant to KRS 278.485 (farm taps).

(a) Direct and indirect costs or savings to those affected: There are no direct or indirect costs or savings associated with these revisions. Most changes are for clarification and to comply with new promulgation language rules.

1. First year: Changes in Section 6(6) could result in savings to the regulated entity since flexibility is allowed in determining maximum metering pressure. Changes in Section 6(9) result in a less restrictive requirement regarding the depth of service or yard lines and may result in savings to affected entities when these lines are replaced or lines for new customers installed.

2. Continuing costs or savings: If savings were realized the first year then those savings will continue thereafter.

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors increasing or decreasing costs and there are no effects on competition.

(b) Reporting and paperwork requirements: There are no additional reporting requirements as a result of these changes.

(2) Effects on the promulgating administrative body: There are no additional requirements for the agency. Language changes are for clarification, consistency, and compliance with new promulgation requirements.

(a) Direct and indirect costs or savings: There is no fiscal impact on the agency.

1. First year: There is no fiscal impact the first year.

2. Continuing costs or savings: There is no continuing fiscal impact.

3. Additional factors increasing or decreasing costs: There are none.

(b) Reporting and paperwork requirements: There are no additional reporting requirements for the agency: Language changes are for clarification, consistency, and compliance with new promulgation requirements.

(3) Assessment of anticipated effect on state and local revenues: There will be no fiscal impact on state and local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Inasmuch as changes are for clarification and consistency, alternatives are unnecessary.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: These changes do not conflict with current laws, regulations or 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: No additional comments.

TIERING: Was tiering applied? No. These are not substantive changes, therefore, tiering was not considered. Majority of changes are editorial and to comply with new promulgation rules.

PUBLIC PROTECTION & REGULATION CABINET
Public Service Commission
(Proposed Amendment)

807 KAR 5:027. Gas pipeline safety; reports of leaks.

RELATES TO: KRS Chapter 278, 49 CFR Part 191, 49 USC 1671

STATUTORY AUTHORITY: KRS 278.040(3), 278.230(3)

NECESSITY AND FUNCTION: KRS 278.040(3) provides that the commission may adopt reasonable regulations to implement the provisions of KRS Chapter 278 and to investigate [the] methods and practices of [the] utilities subject to [the] commission['s] jurisdiction. KRS 278.230(3) provides that [the] utilities shall file any reports reasonably required by the commission. This regulation establishes [the] rules which apply to reports of leaks by natural gas utilities.

Section 1. Definitions. (1) "Incident" means a gas leak, accident, or other event on a pipeline which requires the utility to notify United States Department of Transportation (USDOT) or the commission. ["Commission" for purposes of this regulation means the Public Service Commission.]

[(2) "Gas" means natural gas, flammable gas, or gas which is toxic or corrosive.]

[(3) "Municipality" means a city, county, or any other political subdivision of a state.]

[(4) "Person" means any individual, firm, joint venture, partnership, corporation, association, state, municipality, cooperative association, or joint stock association, and includes any trustee, receiver, assignee, or personal representative thereof.]

(2) [(5)] "Pipeline facilities" includes, without limitation, new and existing pipe, right-of-way, and any equipment, facility, or building used in [the] transportation of gas or [the] treatment of gas during the course of transportation.

(3) [(6)] "System" means all pipeline facilities used by a utility [particular operator] in [the] transportation of gas, including but not limited to, line pipe, valves and other appurtenances connected to line pipe, compressor units, fabricated assemblies associated with compressor units, metering (including customers' meters) and delivery stations, and fabricated assemblies in metering and delivery stations.

(4) [(7)] "Test failure" means a break or rupture that occurs during strength-proof testing of transmission or gathering lines that is of such magnitude as to require repair before continuation of the test.

(5) [(8)] "Transportation of gas" means the gathering, transmission, or distribution of gas

by pipeline, or [the] storage of gas in or effecting interstate, intrastate or foreign commerce.

Section 2. Scope. (1) This regulation prescribes requirements for [the] reporting [of] gas leaks that are not intended by the utility and that require immediate or scheduled repair and of test failures as defined in Section 1(4) of this regulation. [by persons engaged in the transportation of gas.]

(2) This regulation applies to leaks and test failures that occur in the gathering of gas located in the following areas:

(a) An area within the limits of any incorporated or unincorporated city, town, or village; or

(b) Any designated residential or commercial area such as a subdivision, business or shopping center, or community development.

(c) The right-of-way of a state highway, county road or railroad on [the] property of a school, church, hospital, park or similar public place.

[(3) The reporting requirements in this regulation are intended to require a report to the commission in case of an accident involving a gas leak on a facility covered by this regulation.]

[Section 3. Telephonic Notice of Certain Leaks. (1) At the earliest practicable moment following discovery, each utility shall give notice in accordance with subsection (3) of this section of any leak that]:

[(a) Caused a death or a personal injury requiring hospitalization.]

[(b) Required the taking of any segment of transmission pipeline out of service.]

[(c) Resulted in gas igniting.]

[(d) Caused estimated damage to the property of the utility, or others, or both, of a total of $5,000 or more.]

[(e) In the judgment of the utility, was significant even though it did not meet the criteria of paragraphs (a), (b), (c) or (d) of this subsection.]

[(2) A utility need not give notice of a leak that met only the criteria of subsection (1)(b) or (c) of this section, if it occurred solely as a result of, or in connection with, planned or routine maintenance or construction.]

[(3) Each notice required by subsection (1) of this section shall be made by toll-free telephone to Area Code (800) 424-8802 and shall include the following information:]

[(a) The location of the leak.]

[(b) The time of the leak.]

[(c) The fatalities and personal injuries, if any.]

[(d) All other significant facts that are known by the operator that are relevant to the cause of the leak or extent of the damages.]

Section 3. [4.] Telephonic Notice of Certain Incidents. (1) At the earliest practicable moment but no later than two (2) hours following discovery, each utility shall give notice to the commission in accordance with subsection (3) of this section of any incident that [a report shall be made by telephone to the chief engineer, gas section of the commission staff of any accident to, or relating to, a facility or operation covered by these regulations which]:

(a) Is reported to USDOT pursuant to 49 CFR Part 191, Federal Pipeline Safety Regulations [in accordance with Section 3 of this regulation].

(b) Requires taking any segment of pipeline or mains out of service. [Causes property damage of $5,000 or more.]

(c) Results in gas ignition.

(d) Causes estimated damage to property of the utility, or others, or both, of $25,000 or more.

(e) [(c)] Results in the loss of service to forty (40) or more customers for four (4) or more hours.

(f) [(d)] Causes the loss of a sizable amount of gas.

(g) [(e)] Received extensive news coverage, or in the judgment of the utility is significant, even though it does [did] not meet the criteria of paragraphs (a) through (g) [, (b), (c) or (d)] of this subsection.

(2) A utility need not give notice of an incident that meets only criteria of subsections (1)(b) and (c) of this section if it occurred solely as a result of, or in connection with, planned or routine maintenance or construction.

(3) Each notice required by subsection (1) of this section shall be made by telephone to the commission's chief engineer, gas pipeline safety branch, or designated staff; and shall include the following numbers:

(a) Names of operator and person making report and their telephone numbers.

(b) Location of incident.

(c) Time of incident.

(d) Number of fatalities.

(e) All other significant facts known by the operator that are relevant to the cause of the incident or extent of damage.

(4) If designated staff cannot be contacted, required information shall be reported by telephone to the neareast post of Kentucky State Police, followed by confirmation via electronic mail addressed to the commission.

(5) Each notice made in accordance with this section shall be supplemented by a written report within thirty (30) days giving full details such as cause; extent of injuries or damage; and steps, if any, taken to prevent reoccurrence. If additional information is received by the utility subsequent to the initial report indicating a different cause, more serious injury, or more serious property damage than was initially reported, a supplemental telephone call shall be made to the commission's chief engineer, gas pipeline safety branch, as soon as practicable.

[(2) If the chief engineer, gas section of the commission, or his delegate cannot be contacted the required information shall be reported by telephone to the nearest post of the Kentucky State Police, followed by a confirming telegram addressed to the commission office.]

[(3) Accident reports made in accordance with this section shall be supplemented, within a reasonable time, by a final written report giving full details such as cause, extent of injuries or damage and steps, if any, taken to prevent reoccurrence.]

[(a) Exceptions to this subsection will be allowed only if the chief engineer, gas section of the commission, advises the utility that such a written report is not necessary.]

[(b) If additional information is received by the utility subsequent to the initial report indicating a different cause, more serious injury or more serious property damage than was

initially reported, a supplemental telephone report shall be made to the commission staff as soon as practicable.]

Section 4. [5.] Addressee for Written Report. (1) Each written report required by this regulation shall be transmitted to the Gas Pipeline Safety Branch, [made in duplicate. One (1) copy shall be transmitted to the Chief Engineer, Gas Section,] Public Service Commission, Post Office Box 615, Frankfort, Kentucky 40602.

(2) Each written report required by Sections 3 and 12 of this regulation shall be transmitted to the Gas Pipeline Safety Branch, Public Service Commission, Post Office Box 615, Frankfort, Kentucky 40602; and one (1) copy shall be transmitted to the Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, U.S. [Information Systems Manager, Materials Transportation Bureau,] Department of Transportation, Room 8417, 400 Seventh Street, SW, Washington, D.C. 20590.

[Section 6. Distribution System: Leak Report. (1) As soon as practicable but not more than twenty (20) days after detection, a utility shall report, to the commission, the following on Department of Transportation Form DOT-F-7100.1:]

[(a) A leak that required notice by telephone pursuant to Sections 3 or 4 of this regulation.]

[(b) A leak that, because of its location, required immediate repair and other emergency action to protect the public such as evacuation of a building, blocking off an area, or rerouting of traffic.]

[(2) When additional related information is obtained after a report is submitted under subsection (1) of this section, the utility shall make a supplementary report as soon as practicable with a clear reference by date and subject to the original report.

(3) Each utility serving more than 100,000 customers shall also report to the Office of Pipeline Safety any leak which meets the requirements of subsection (1) of this section.]

Section 5. [7.] Distribution System: Annual Report. (1) Any [A] utility operating a distribution system and submitting an annual report to USDOT pursuant to 49 CFR Part 191 on USDOT [shall submit an annual report on Department of Transportation] Form DOT F-7100.1-1 shall concurrently file the annual report with the commission. [This report must be submitted not later than February 15 for the preceding calendar year.]

(2) The annual report required by subsection (1) of this section need not be submitted with respect to petroleum gas systems which serve less than 100 customers from a single source.

Section 6. [8.] Distribution Systems Reporting [: Certain Facilities Reported as a] Transmission Pipelines; Transmission or Gathering Systems Reporting Distribution Pipelines. Any [A] utility primarily engaged in gas distribution which also operates gas transmission or gathering pipelines and submits an incident report or annual report to USDOT pursuant to 49 CFR Part 191.15 or 191.17 shall concurrently file a copy of the report with the commission. Any utility primarily engaged in gas transmission or gathering which also operates gas distribution pipelines and submits an incident report or annual report to USDOT pursuant to 49 CFR Part 191.9 or 191.11 shall concurrently file a copy of the report with the commission. [shall, for pipeline facilities that operate at twenty (20) percent or more of specified minimum yield strength, or that used to convey gas into or out of storage, submit reports for those facilities under Sections 9 and 10 of this regulation.]

Section 7. [9.] Transmission and Gathering Systems: Incident [Leak] Report. (1) A utility operating a transmission or gathering system and submitting USDOT Form RSPA F7100.2 pursuant to 49 CFR 191.15 shall concurrently file a copy of the report with the commission. [shall, as soon as practicable but not more than twenty (20) days after detection , report the following on Department of Transportation Form DOT-F-7100.2:]

[(a) A leak that required notice by telephone under Sections 3 or 4 of this regulation.]

[(b) Leak in a transmission line that required immediate repair.]

[(c) A test failure that occurred while testing either with gas or another test medium.]

(2) When additional relevant [related] information is obtained after a report is submitted in accordance with [under] subsection (1) of this section, the utility [operator] shall make a supplemental report as soon as practicable with [a] clear reference by date and subject to the original report.

Section 8. [10.] Transmission and Gathering Systems: Annual Report. A utility operating a transmission or gathering system and submitting USDOT [shall submit an annual report on Department of Transportation] Form DOT-F-7100.2-1 pursuant to 49 CFR Part 191.17 shall concurrently file a copy of the report with the commission. [This report must be submitted for the preceding calendar year not later than February 15.]

Section 9. [11.] Report Forms. Copies of [the] prescribed report forms are available without charge upon request from the USDOT Office of Pipeline Safety or from the commission. Additional copies in this prescribed format may be reproduced and used if of [in the] same size and kind of paper.

Section 10. Reporting Safety-Related Conditions. (1) Except as provided in subsection (2) of this section, each utility shall report in accordance with Section 11 of this regulation the existence of any of the following safety-related conditions involving facilities in service:

(a) In the case of a pipeline that operates at a hoop stress of twenty (20) percent or more of its specified minimum yield strength, general corrosion that has reduced wall thickness to less than that required for the maximum allowable operating pressure, and localized corrosion pitting to a degree where leakage might result.

(b) Unintended movement or abnormal loading by environmental causes, such as an earthquake, landslide, or flood, that impairs the serviceability of a pipeline.

(c) Any material defect or physical damage that impairs serviceability of a pipeline that

operates at a hoop stress of twenty (20) percent or more of its specified minimum yield strength.

(d) Any malfunction or operating error that causes the pressure of a pipeline to rise above its maximum allowable operating pressure plus the build-up allowed for operation of pressure limiting or control devices.

(e) A leak in a pipeline that constitutes an emergency.

(f) Any safety-related condition that could lead to an imminent hazard and causes (either directly or indirectly by remedial action of the operator), for purposes other than abandonment, a twenty (20) percent or more reduction in operating pressure or shutdown of operation of a pipeline.

(2) A report is not required for any safety-related condition that:

(a) Exists on a master meter system or a customer-owned service line;

(b) Is an incident or results in an incident before the deadline for filing the safety-related condition report;

(c) Exists on a pipeline that is more than 220 yards from any building intended for human occupancy or outdoor place of assembly, except that reports are required for conditions within the right-of-way of an active railroad, paved road, street, or highway; or

(d) Is corrected by repair or replacement in accordance with applicable safety standards pursuant to 807 KAR 5:022 before the deadline for filing the safety-related condition report, except that reports are required for conditions under subsection (1)(a) of this section other than localized corrosion pitting on an effectively coated and cathodically protected pipeline.

Section 11. Filing Safety-related Condition Reports. (1) Each report of a safety-related condition under Section 10 of this regulation shall be filed (received by the commission) in writing within five (5) working days (not including Saturday, Sunday, or federal holidays) after the day a representative of the utility first determines that the condition exists, but not later than ten (10) working days after the day a representative of the utility discovers the condition. Separate conditions may be described in a single report if they are closely related. To file a report by telefacsimile (fax) dial 502-564-7279.

(2) The report shall be headed "Safety-related Condition Report" and provide the following information:

(a) Name and principal address of utility.

(b) Date of report.

(c) Name, job title, and business telephone number of person submitting the report.

(d) Name, job title, and business telephone number of person who determined that the condition exists.

(e) Date condition was discovered and date condition was first determined to exist.

(f) Location of condition, with reference to the town, city or county, and as appropriate nearest street address, survey station number, milepost, landmark, or name of pipeline.

(g) Description of the condition, including circumstances leading to its discovery, any significant effects of the condition on safety, and name of commodity transported or stored.

(h) Corrective action taken (including reduction of pressure or shutdown) before the report is submitted and the planned follow-up future corrective action, including anticipated schedule for starting and concluding such action.

GEORGE EDWARD OVERBEY, JR., Chairman
THEODORE T. COLLEY, Secretary
APPROVED BY AGENCY: February 14, 1990
FILED WITH LRC: February 15, 1990 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on March 21, 1990, at 10 a.m. at the Public Service Commission's office, Hearing Room No. 1, 730 Schenkel Lane, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by March 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 received. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Lee M. MacCracken, Executive Director, Public Service Commission, 730 Schenkel Lane, P.O. Box 615, Frankfort, Kentucky 40602.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Lee M. MacCracken

(1) Type and number of entities affected: This regulation affects 66 gas utilities under the jurisdiction of the agency.

(a) Direct and indirect costs or savings to those affected: This regulation addresses procedures and reporting requirements for leaks and accidents. Most changes are pursuant to recent revisions in federal DOT requirements. The PSC is the state agency responsible for enforcement of pipeline safety and pursuant to the Pipeline Safety Act of 1968, Section 5(a) Certification Agreement must comply with federal standards. Although some minor characteristics of reporting requirements are changed, there is no discernible fiscal impact from these changes because they are not daily operational requirements.

1. First year: There is no fiscal impact.

2. Continuing costs or savings: There is no fiscal impact.

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no factors which impact costs, nor are there any effects on competition.

(b) Reporting and paperwork requirements: Reporting requirements will be less restrictive because the qualification for reporting leaks or incidents increases from $5,000 to $25,000 in damage for agency reports (Section 4). Section 4: Amendment specifies a time frame of two hours for reporting to the agency. Such timely reporting will guarantee adequate monitoring. Sections 5-11: Changes made to comply with federal DOT requirements.

(2) Effects on the promulgating administrative body: There will be negligible effect on the agency because these changes do not affect daily operation. They are regulations for emergency

situations, and as such, impact the Gas Pipeline Safety Branch only.

(a) Direct and indirect costs or savings: There are no direct and indirect costs or savings to the PSC.

1. First year: There is no fiscal impact.

2. Continuing costs or savings: There is no fiscal impact.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Changes do not affect agency procedure in responding to notification.

(3) Assessment of anticipated effect on state and local revenues: There is no fiscal impact on state and local revenue.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Inasmuch as these changes are pursuant to revised federal DOT requirements, alternatives were not applicable.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: These changes are not in conflict with any current statutes or regulations.

(a) Necessity of proposed regulation if in conflict: No conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: No conflict.

(6) Any additional information or comments: No additional comments.

TIERING: Was tiering applied? No. This is not a new regulation. Inasmuch as most changes are pursuant to federal DOT requirements, tiering is not applicable.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. The federal statute and regulation constituting the federal mandate are 49 App. USC §1672, 1804 and 49 CFR, Part 191, Amendment Nos. 47 through 64, March 1984 through July 1989.

2. State compliance standards. This regulation establishes requirements which apply to the reporting of leaks for natural gas utilities operating under the jurisdiction of the Kentucky Public Service Commission.

3. Minimum or uniform standards contained in the federal mandate. The federal regulation proscribes minimum safety and service statutes for natural gas utilities.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The administrative regulation imposes neither stricter, additional, or different requirements than the federal. The federal regulation has been adopted with no changes.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.

PUBLIC PROTECTION & REGULATION CABINET
Public Service Commission
(Proposed Amendment)

807 KAR 5:041. Electric.

RELATES TO: KRS Chapter 278
STATUTORY AUTHORITY: KRS 278.280(2)
NECESSITY AND FUNCTION: KRS 278.280(2) provides that the commission shall prescribe rules for the performance of any service or the furnishing of any commodity by the utility. This regulation establishes general rules which apply to electric utilities.

Section 1. Definitions. For purposes of this regulation: ["Commission" means the Public Service Commission.]

(1) "Building" means a structure enclosed within exterior walls or fire walls, built, erected and framed of component structural parts and designed for less than five (5) family occupancy.

(2) "Customer" means the developer, builder or other person, partnership, association, corporation or governmental agency applying for installation of an underground electric supply system.

(3) "Customer premises" means the building for which service is intended or in use.

(4) "Distribution system" means electric service facilities consisting of primary and secondary conductors, transformers, and necessary accessories and appurtenances for furnishing electric power at utilization voltage.

(5) "Multiple-occupancy building" means a structure enclosed within exterior walls or fire walls, built, erected and framed of component structural parts and designed to contain five (5) or more individual dwelling units.

(6) "Subdivision" means a tract of land which is divided into ten (10) or more lots for the construction of new residential buildings, or for construction of two (2) or more new multiple occupancy buildings.

Section 2. General Requirements. Every utility shall furnish adequate service and facilities at [the] rates filed with the commission, and in accordance with [the] regulations of the commission and applicable [the] rules of the utility [applicable thereto]. [The] Energy shall be generated, transmitted, converted and distributed by the utility, and utilized, whether by the utility or the customer, in such manner as to obviate undesirable effects upon the operation of standard services or equipment on the utility, its customers and other utilities.

Section 3. Acceptable Standards. A utility shall construct and maintain its plant and facilities in accordance with good accepted engineering practices. Unless otherwise specified by the commission, the utility shall use [the] applicable provisions in the following publications as standards of accepted good engineering practice for [the] construction and maintenance of plant and facilities, herein incorporated by reference:

(1) National Electrical Safety Code; ANSI C-2. 1987 [1981] Edition, available by contacting the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02169;

(2) National Electrical Code; ANSI-NFPA 70.

1987 [1981] Edition, available by contacting the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02169;

(3) American National Standard Code for Electricity Metering; ANSI C-12.1. 1982 [1975] Edition, available by contacting the Institute of Electrical and Electronics Engineers, Inc., 345 E. 47th Street, New York, New York 10017;

(4) USA Standard Requirements, for Instrument Transformers; ANSI Standard [USAS] C57.13, 1978 [1968] Edition, available by contacting the Institute of Electrical and Electronics Engineers, Inc., 345 E. 47th Street, New York, New York 10017.

(5) The adoption and applicability of the National Electrical Code as a standard of utility construction is limited to electric utility auxiliary buildings which are not an integral part of a generating plant, substation, or control center. Integral part is defined as essential to the operation or necessary to make complete.

(6) All materials incorporated by reference above are available for public inspection and copying at the Public Service Commission of Kentucky, 730 Schenkel Lane, Frankfort, Kentucky 40601, between the hours of 8 a.m. and 4:30 p.m.

Section 4. Generating Station Meter Records. Every utility shall install such watt-hour meters as [may be] necessary to obtain a record of [the] output of its generating station or stations. Every utility purchasing electrical energy shall install such meters as [may be] necessary to furnish a proper record of its purchases, unless such [instrument or] instruments are installed by the selling company.

Section 5. Maintenance or Continuity of Service. (1) Each utility shall make all reasonable efforts to prevent interruptions of service, and when such interruptions occur shall endeavor to reestablish service with the shortest possible delay. Whenever [the] service is necessarily interrupted or curtailed for the purpose of working on equipment, it shall be done at a time[, which] if [at all] practicable, that will cause [the] least inconvenience to customers, and those customers which may be seriously affected shall be notified in advance, except in cases of emergency.

(2) Each utility shall keep a record of: [the] time of starting and shutting down the principal units of its power station equipment and feeders for major divisions; [the] indications of sufficient switchboard instruments to show [the] voltage and quantity of the load; [of] all interruptions to service affecting the entire distribution system of any single community or [an] important division of a community; and [include in such record the] date and time of interruption, [the] date and time of restoring service, and when known, [the] cause of each interruption.

(3) When complete distribution systems or portions of communities have service furnished from unattended stations, the utility shall keep these records [shall be kept] to the extent practicable. The records of unattended stations shall show interruptions which require attention to restore service, with [the] estimated time of interruption. Breaker or fuse operations affecting service shall also be indicated even though duration of interruption may not be known.

Section 6. Voltage and Frequency. (1) Each utility shall adopt a standard nominal voltage or standard nominal voltages, as [may be] required by its distribution system for its entire constant-voltage service, or for each of [the] several districts into which the systems may be divided, which standard voltages shall be stated in every schedule of rates of each utility or in its terms and conditions of service.

(2) [The] Voltage at the customer's service entrance or connection shall be maintained as follows:

(a) For service rendered primarily for lighting purposes, [the] variation in voltage between 5 p.m. and 11 p.m. shall not be more than five (5) percent plus or minus the nominal voltage adopted, and [the] total variation of voltage from minimum to maximum shall not exceed six (6) percent of the nominal voltage.

(b) 1. For service rendered primarily for power purposes, [the] voltage variation shall not at any time exceed ten (10) percent above or ten (10) percent below standard nominal voltage.

2. Where a limited amount of lighting is permitted under these contracts, the entire load shall be considered power as far as voltage variation is concerned.

(c) Where [the] utility['s] distribution facilities supplying customers are reasonably adequate and of sufficient capacity to carry [the] actual loads normally imposed, the utility may require that starting and operating characteristics of equipment on customer['s] premises shall [be such that starting and operating characteristics will] not cause an instantaneous voltage drop of more than four (4) percent of [the] standard voltage nor cause objectionable flicker in other customer's lights.

(d) Equipment supplying constant current circuits shall be [so] adjusted [as] to furnish as nearly as practicable the rated current of the circuit supplied, and in no case shall the current vary more than four (4) percent above or below the circuit rating [of the circuit].

(3) Each utility supplying alternating current shall adopt a standard frequency of sixty (60) hertz [cycles] which shall be stated in the schedule of rates of each utility. [The utility shall maintain this frequency to within three (3) percent above and three (3) percent below the standard at all times; provided, however, that momentary variations in frequency greater than three (3) percent, which are not due to lack of reasonable care on the part of the utility in the selection and operation of equipment, shall not be considered a violation of this rule.]

(4) A frequency meter monitor [standard clock] shall be maintained for [to control] each system frequency. [The] Accuracy of the frequency meter [standard clock] shall be checked each day and [the] frequency shall be governed within [the] limits as set forth in this section [given above] so that the frequency meters [clocks] on the system are correct once daily.

(5) The following shall not be considered a violation of this section: Voltage variations [in voltage] in excess of those [specified] caused by [the] operation of power apparatus on customer['s] premises which [necessarily] require[d] large starting currents and affect only [ing alone] the user of such apparatus, by [the] action of the elements and infrequent and unavoidable fluctuations of short duration due

to system operation[, shall not be considered a violation of this rule].

(6) [A] Greater variation of voltage [and frequency] than [herein] specified under this section may be allowed if [when] service is supplied directly from a transmission line, if [or in case of] emergency service, or if in a limited or extended area in which [where] customers are [so] widely scattered [and/]or [that the] business done does not justify close voltage regulation. In such cases the best voltage regulation shall be provided that is practicable under the circumstances.

Section 7. Voltage Surveys and Records. (1) Every utility shall have [provide itself with] two (2) or more portable indicating voltmeters and two (2) [one (1)] or more recording or graphic voltmeters of type and capacity suited to the voltage supplied. Every utility shall make a sufficient number of voltage surveys to indicate the service furnished from each center of distribution. [, and] To satisfy the commission of its compliance with [the] voltage requirements, each utility shall keep at least one (1) of these instruments in continuous service at some representative point on its system. All records of the most recent voltage surveys taken within the last three (3) calendar years shall be available for inspection by the utility's customers and commission staff.

(2) Each graphic recording voltmeter shall be checked with a working standard indicating voltmeter when it is placed in operation and when it is removed, or periodically if the instrument is in a permanent location. Notations on each chart shall indicate beginning time and date of [when the] registration [began (time and date)] and when the chart was removed, as well as the point where [the] voltage was taken, and [the] results of the check with indicating voltmeter.

Section 8. Servicing Utilization Control Equipment. (1) Utilities shall service and maintain any equipment they use on customer's premises and shall adjust thermostats, clocks, relays, or time switches, if such devices must be so adjusted to provide service in accordance with their rate provisions.

(2) [The] Time switches used by the utility for controlling equipment such as water heaters and street lights shall be of such quality that the timing mechanism may be adjusted [so as] to be accurate within ten (10) minutes per month. Time switches used by the utility for controlling street lighting or display lighting shall be inspected or monitored [operation observed] at least once a month and, if in error, adjusted. Time switches shall also be [, and also] adjusted upon complaint if found in error or when service interruptions cause them to be in error by one-half (1/2) hour or more.

(3) Time switches and control devices used by the utility for controlling off-peak appliances shall be inspected or monitored [operation observed] periodically and adjusted if in error, and also adjusted upon complaint if found in error or whenever service interruptions result in error of two (2) hours or more or in supplying service to off-peak appliances during peak periods.

Section 9. Measuring Customer Service. (1) All energy sold within the State of Kentucky shall be measured by commercially acceptable measuring devices owned and maintained by the utility, except where it is impracticable to meter loads, such as multiple street lighting, temporary or special installations, in which case [the] consumption may be calculated. The utility shall meter its own electrical energy use[d by itself] except when such service is for [the purpose of] emergency or incidental lighting such as outdoor substations, or at remote points on its transmission or distribution lines. All other electrical quantities which the utility's tariff indicates are to be metered shall be metered by commercially acceptable instruments owned and maintained by the utility.

(2) The utility shall regard each point of delivery as an independent customer and meter the power delivered at each point [thereat]. [The practice of] Combined [ing] meter readings shall not be taken at separate points, nor shall [or of measuring the] energy used by more than one (1) residence or place of business on one (1) meter be measured to [for the purpose of] obtain[ing] a lower rate[, is absolutely prohibited].

(3) Metering facilities located at any point where energy may flow in either direction and where the quantities measured are used for billing purposes shall consist of meters equipped with ratchets or other devices to prevent reverse registration and be so connected as to separately meter [separately] energy flow in each direction.

(4) Whenever possible reactive meters required to meet the conditions of a given rate schedule shall be either all ratcheted or none shall be ratcheted. Reactive metering shall not be employed for determining average power factor for billing purposes where energy may flow in either direction or where a customer may generate an appreciable amount of his own requirements.

(5) Meters which are not direct reading and those operating from instrument transformers shall have the multiplier plainly marked on the dial of the instrument or otherwise suitably marked and all charts taken from recording meters shall be marked with the record date, [of the record, the] meter number, customer and chart multiplier.

(6) The register ratio shall be marked on all electro-mechanical meter registers. Meters already in service may be so marked when they are tested.

(7) The watt-hour constant for the meter itself shall be placed on all watt-hour meters. Meters already in service shall be so marked when they come to the meter shop.

Section 10. Service Connections. (1) The utility shall pay all [the entire] costs of a service drop or an initial connection to its line with the customer's service outlet, except the attachment [ing] of the wire support to [the] customer['s] premises. When the customer's outlet [for any reason] is inaccessible to the utility, or [for any reason] the customer desires that the service outlet on any building be at a location other than that closest to the utility's line, [the] cost of such special construction as [may be found] necessary shall be borne by the customer. The [customer may require the] utility shall [to] furnish at its expense an amount of wire, labor and material equivalent to that furnished for a like service

connection not requiring such special construction.

(2) Underground service requirements and regulations shall be established by each utility and be on file with the commission.

(3) All equipment and material furnished by the utility at its own expense shall remain the property of the utility and may be removed by it at any reasonable time after [the] discontinuance of service.

Section 11. Distribution Line Extensions. (1) Normal extensions. An extension of 1,000 feet or less of single phase line shall be made by a utility to its existing distribution line without charge for a prospective customer who shall apply for and contract to use the service for one (1) year or more and provides guarantee for such service. The "service drop" to customer premises [the house] from the distribution line at the last pole shall not be included in the foregoing measurements. This distribution line extension shall be limited to service where installed transformer capacity does not exceed 25 KVA. Any utility which extends service to a customer who may require polyphase service or whose installed transformer capacity will exceed 25 KVA may require the customer to pay in advance additional cost of construction which exceeds that for a single phase line where the installed transformer capacity does not exceed 25 KVA.

(2) Other extensions.

(a) When an extension of the utility's line to serve an applicant or group of applicants amounts to more than 1,000 feet per customer, the utility may, if not inconsistent with its filed tariff, require [the] total cost of the excessive footage over 1,000 feet per customer to be deposited with the utility by the applicant or applicants, based on the average estimated cost per foot of the total extension.

(b) Each customer receiving service under such extension will be reimbursed under the following plan: Each year, for a refund period of not less than ten (10) years, [which for the purpose of this rule shall be the refund period,] the utility shall refund to the customer(s) [or customers] who paid for the excessive footage the cost of 1,000 feet of [the] extension in place for each additional customer connected during the year whose service line is directly connected to the extension installed and not to extensions or laterals therefrom. [, but in no case shall the] Total amount refunded shall not exceed the amount paid the utility. [After the end of the refund period] No refund shall [will] be [required to be] made after the refund period ends.

(c) For additional customers connected to an extension or lateral from the distribution line, the utility shall refund to any customer who paid for excessive footage the cost of 1,000 feet of line less the length of the lateral or extension.

(3) An applicant desiring an extension to a proposed real estate subdivision may be required to pay the entire cost of the extension. Each year, for a period of not less than ten (10) years, the utility shall refund to the applicant who paid for the extension a sum equivalent to the cost of 1,000 feet of the extension installed for each additional customer connected during the year. [, but in no case shall the] Total amount refunded shall not exceed the amount paid to the utility. [After the end of the refund period from the completion of the extension] No refund shall be made after the refund period ends. [will be required to be made.]

(4) Nothing contained herein shall be construed as to prohibit the utility from making extensions under different arrangements if [provided] such arrangements have been approved by the commission.

(5) Nothing contained herein shall be construed [as] to prohibit a utility from making at its expense greater extensions than herein prescribed, if similar [should its judgment so dictate, provided like] free extensions are made to other customers under similar conditions.

(6) Upon complaint to and investigation by the commission, a utility may be required to construct extensions greater than 1,000 feet upon a finding by the commission that such extension is reasonable.

Section 12. Distribution Line Extensions to Mobile Homes. (1) All extensions of up to 150 feet from the nearest distribution line [facility] shall be made without charge.

(2) Extensions greater than 150 feet from the nearest distribution line [facility] and up to 300 feet shall be made if [provided] the customer [shall] pays the utility a "customer advance for construction" of fifty (50) dollars in addition to any other charges required by the utility for all customers. This advance shall be refunded at the end of one (1) year if [the] service to the mobile home continues for that length of time.

(3) For extensions greater than 300 feet and less than 1,000 feet from the nearest distribution line [facility], the utility may charge an advance equal to [the] reasonable costs incurred by it for that portion of [the] service beyond 300 feet plus fifty (50) dollars. Beyond 1,000 feet the extension policies set forth in Section 11 of this regulation shall apply.

(a) This advance shall be refunded to the customer over a four (4) year period in equal amounts for each year [the] service is continued. The customer advance for construction of fifty (50) dollars shall be added to the first of four (4) refunds.

(b) If [the] service is discontinued for a period of sixty (60) days, or [should] the mobile home is [be] removed and another does not take its place within sixty (60) days, or is not [be] replaced by a permanent structure, the remainder of the advance shall be forfeited.

(c) No refunds shall be made to any customer who did not make the advance originally.

(4) If a utility implements specific requirements pertaining to mobile homes, such requirements shall be subject to approval by the commission and comply with the provisions of this regulation. [All utilities which have mobile home rules on file which differ from the provisions set out above shall within ninety (90) days after the effective date of this regulation file revised regulations complying with the above provisions.]

Section 13. Testing Equipment and Standards. (1) Each utility shall maintain sufficient laboratories, meter testing shops, standards, instruments and facilities to determine [the] accuracy of all types of meters and measuring

devices used by the utility except as provided in 807 KAR 5:006, Section 13.

(2) The following testing equipment shall be available as minimum requirements for each utility[, and/]or agency making tests or checks for a utility pursuant to 807 KAR 5:006, Section 13(2):

(a) One (1) or more working watthour [rotating] standards and associated devices of capacity and voltage range adequate to test all watt-hour meters used by the utility.

(b) One (1) or more watthour [rotating] standards, which shall be the utility's master watthour [rotating] standards, used for testing the working watthour [rotating] standards of the utility. These standards shall be of an approved type, shall be well compensated for both classes of temperature errors, practically free from errors due to ordinary voltage variations, and free from erratic registration [due to any cause]. These master watthour [rotating] standards shall be of capacity and voltage range adequate to test all working watthour [rotating] standards at all loads and voltages at which they are used. These standards [, and] shall be kept permanently at one place and not used for routine testing.

(c) Working indicating instruments, such as ammeters, voltmeters and wattmeters, of such various types [as are] required to determine the quality of service to customers.

(d) A voltmeter and ammeter, which shall be master indicating instruments, and which shall be used for [the] testing of working indicating and recording instruments. These instruments shall be of an approved type and of accuracy class and range sufficient to determine [the] accuracy of working instruments to within five-tenths (0.5) percent of all ranges and scale deflections at which working instruments are used. They shall be kept permanently at one place and not used for routine testing.

(3) The utility's master watthour [rotating] standards shall not be in error by more than plus or minus three-tenths (0.3) percent at 100 percent power factor, nor more than plus or minus five-tenths (0.5) percent at fifty (50) percent power factor at loads and voltages at which they are used, and shall not be used to check or calibrate working standards unless the master standard has been certified as to accuracy by the commission within the preceding twelve (12) months. Each master watthour [rotating] standard shall have a history card and calibration data available, and when used to calibrate working standards, correction for any error of the master standard shall be applied.

(4) All working watthour [rotating] standards when regularly used shall be compared with a master standard at least once in every four (4) [two (2)] weeks. Working watthour [rotating] standards infrequently used shall be compared with a master standard before they are used.

(5) Working watthour [rotating] standards shall be adjusted, if necessary, so that their accuracy will be within plus or minus three-tenths (0.3) percent at 100 percent power factor and within plus or minus five-tenths (0.5) percent at fifty (50) percent lagging power factor at all voltages and loads at which the standard may be used. A history and calibration record shall be kept for each working watthour [rotating] standard showing all pertinent data and [the] name of person performing tests.

(6) After having adjusted working watthour [rotating] standards to the accuracy specified above, service measuring equipment shall be adjusted to within the accuracies required, assuming [the] working watthour [rotating] standards to be 100 percent accurate.

(7) If calibration charts are attached to working watthour [rotating] standards and the error indicated is applied to all tests run and the accuracy on any range has not varied more than two-tenths (0.2) percent during the past twelve (12) regular test periods, [the] accuracy limits may be extended to plus or minus five-tenths (0.5) percent at 100 percent power factor and plus or minus seven-tenths (0.7) percent at fifty (50) percent lagging power factor at all voltages and loads at which the standard may be used.

(8) The utility's master indicating instruments shall not be in error by more than plus or minus five-tenths (0.5) percent of indication at commonly used scale deflections and shall not be used to check or calibrate working indicating instruments unless the master instrument has been checked and adjusted, if necessary, and certified as to accuracy by the commission within the preceding twenty-four (24) months. A calibration record shall be maintained for each instrument.

(9) All working indicating instruments shall be checked against master indicating instruments at least once in each six (6) months. If the working instrument is found appreciably in error at zero or in error by more than one (1) percent of indication at commonly used scale deflections, it shall be adjusted. A calibration record shall be maintained for each instrument showing all pertinent data and [the] name of person performing tests.

Section 14. Check of Standards by Commission. (1) Each utility, and/or agency making tests or checks for a utility, shall submit to the commission Meter Standards Laboratory, its master watthour [rotating] standard once in each year, and its master indicating voltmeter and ammeter once in each two (2) years.

(2) At the discretion of the commission any or all of these required tests may be made at the utility's or agency's testing facility by means of portable transfer standards [maintained by the commission]. If the standards satisfy the requirements [of the rules and regulations] of the commission a Certificate of Accuracy shall be issued by the commission's Division of Engineering.

(3) Each utility which normally checks its own master watthour [rotating] standards and master indicating instruments against primary standards such as precision wattmeters, volt boxes, resistances, standard cells, potentiometers, and timing devices, shall calibrate the master watthour [rotating] standards and indicating instruments before they are submitted to the commission for test, and attach to them a record of such calibration.

Section 15. Testing of Metering Equipment. (1) [The] Testing of any unit of metering equipment shall consist of a comparison of its accuracy with a standard of known accuracy. All metering equipment shall be in good order, and shall be adjusted to as close to zero error as possible.

(2) No meter or measuring device shall be deliberately set in error by any amount. Because

of unavoidable irregularities of work done on a commercial scale, some accuracy tolerance shall [must] be allowed. Meters shall be set as near as practicable to 100 percent accuracy but in no case shall the inaccuracy exceed one (1) percent. [In a properly run shop, most meters can be set within one-half (1/2) percent and virtually all can be set within one (1) percent.] Further, meters with defective parts shall be repaired regardless of their accuracy.

(3) [When tests will be made.] Metering equipment, including instrument transformers and demand meters, shall be tested for accuracy [within one (1) year] prior to being placed in service, periodically in accordance with the schedule below, upon complaint, when suspected of being in error, or [and] when removed from service for any cause.

Period Test Schedule	
Self-Contained Meters	
Single phase	8 years
3 wire network	8 years
Polyphase	6 years
Meters used with instrument transformers	
Single phase	6 years
Polyphase	4 years
Demand Meters	
Indicating block-interval and lagged-demand meters	same as associated watt-hour meter
Graphic and pulse operated recording demand meters	2 years
Instrument Transformers	
Current: high burden test	same as associated watt-hour meter
Potential: secondary voltage test	same as associated watt-hour meter
Var-hour Meters	same as associated watt-hour meter
Direct Current Watt-hour Meters:	
Up to and including 6 KW	4 years
Over 6 KW through 100 KW	2 years
Over 100 KW	1 year

(4) [Where tests will be made.] Tests may be made at a meter shop, on the customer's premises, or in a mobile shop.

Section 16. Sample Testing of Single Phase Meters. A utility desiring to adopt a scientific sample meter testing plan for single phase meters [rated twelve (12) KVA and less] shall submit its application to the commission for approval. Upon [such] approval the sample testing plan may be followed in lieu of the periodic test prescribed in Section 15(3) of this regulation. The plan shall include the following:

(1) Meters shall be divided into separate groups to recognize differences in operating characteristics due to changes in design, taking into consideration date of manufacture and serial number.

(2) The sampling procedure shall be based upon accepted statistical principles.

(3) The same sampling procedure shall be applied to each group.

(4) Each utility authorized to test meters by sample meter testing plan shall comply with the following conditions:

(a) The number of meters in addition to the sample shall be taken from those meters in each group longest in service since last test unless a particular meter type is known to be increasing the percentage of meters requiring test for the sample group. In such a case where a particular meter type is increasing the percentage of meters requiring test in any group, these meters may be selected first regardless of test date with any additional tests as required for that group coming from those in that group longest in service since last test. Each year the utility shall use the following table to determine the percentage of the total meters in each group to be tested. [, after the sampling procedure has been applied to each group of meters and the accuracy of the groups determined, the utility shall use the following table to determine the percentage of the total meters in each group to be tested. The number of meters in the sample tested may be included in the total when determining the number of additional meters required to be tested from the table below. The number of meters in addition to the sample shall be taken from those meters in each group longest in service since the last previous test.]

Percentage of Meters Within Limits of 2% Fast or Slow (Indicated by Sample)		Percentage of Meters to be Tested the Next Year [Annually]
99.0	100.0	2
98.0	98.9	4
97.0	97.9	6
96.0	96.9	8
95.0	95.9	10
93.0	94.9	12
91.0	92.9	14
Less than	91.0	16

(b) Provided, however, that no meter shall remain in service without periodic test for a period longer than twenty-five (25) years.

(5) Whenever a meter is found to be more than two (2) percent fast or slow, refunds or back billing shall be made for the period during which the meter error is known to have existed or if not known for one-half (1/2) the elapsed time since the last [previous] test but in no case to exceed three (3) years.

Section 17. Test Procedures and Accuracy Requirements. (1) Meters and[/or] associated devices shall be tested at the loads indicated below and adjusted as close as practicable to zero error when found to exceed the tolerance prescribed below.

A. C. Watt-hour Meters % of Test Current	Power Factor	Allowable Tolerance
100	1.0	+ or - 1.0%
10	1.0	+ or - 1.0%
100	0.5	+ or - 1.0%

D. C. Watt-hour Meters % of Test Current	Allowable Tolerance
100	1.0%
10	1.0%

(a) Only one (1) test run shall normally be required at each test configuration. However if the test indicates the meter is more than two (2) percent in error fast or slow, [one (1) or

more] additional tests shall be made to verify [the] accuracy prior to refunding or back billing the customer.

(b) When a meter is tested on complaint or request, additional test runs shall [should] be made and care exercised to insure that any trouble with the meter will be detected.

(c) For refund and back billing purposes, [the] accuracy of the meter shall be determined by adding the average registration at light load (ten (10) percent of test current) and the average registration at full load (100 percent of test current) and dividing by two (2).

(2) Demand meters. A demand meter, demand register, or demand attachment used to measure customer's service shall:

(a) Be in good mechanical and electrical condition.

(b) Have proper constants, indicating scale, contact device, and resetting device.

(c) Not register at no load.

(d) Be accurate to the following degrees:

1. Graphic meters which record quantity-time curves and integrated-demand meters shall be accurate to within plus or minus two (2) percent of full scale throughout their working range. Timing elements measuring specific demand intervals shall be accurate to within plus or minus two (2) percent and the timing element which serves to provide a record of the time of day when [the] demand occurs shall be accurate to within plus or minus four (4) minutes in twenty-four (24) hours.

2. Lagged-demand meters shall be accurate to within plus or minus two (2) percent at final indication.

(3) Instrument transformers.

(a) Instrument transformers used in conjunction with metering equipment to measure customer's service shall:

1. Be in proper mechanical condition and have electrical insulation satisfactory for the service on which used.

2. Have characteristics such that the combined inaccuracies of all transformers supplying one (1) or more meters in a given installation shall [will] not exceed the following:

	100% Power Factor		50% Power Factor	
	10% Current	100% Current	10% Current	100% Current
Purchased after Jan. 1, 1942	1%	.75%	3%	2%
Purchased prior to Jan. 1, 1942	2%	1.50%	5%	3%

(b) Meters used in conjunction with instrument transformers shall be adjusted so that [the] overall accuracies will come within the limits specified in this regulation.

(c) Instrument transformers shall be tested with the meter with which they are associated by making an overall test, or may be checked separately. If [the] transformers are tested separately, [the] meters shall also be checked to see that [the] overall accuracy of [the] installation is within the prescribed accuracy requirements.

(d) [The] Results of tests of instrument transformers shall be kept on record and be available for use during the life of the transformer.

(e) Phase shifting transformers shall have secondary voltages under balanced line voltage conditions within one (1) percent plus or minus of the voltage impressed on the primary.

Section 18. Location of Meters. (1) Meters shall be installed in a clean, dry, safe, convenient place as free as possible from vibration. Meters shall be easily accessible for reading, testing, and making necessary adjustments and repairs, and where indoor type meters are necessary they shall not be placed in coal or wood bins or on [the] partitions forming bins [same], nor on any unstable supports. Unless absolutely unavoidable, meters shall not be installed in attics, sitting rooms, bathrooms, bedrooms, restaurant kitchens, over doors, over windows, or in any location where [the] visits of the meter reader or tester will cause annoyance to the customer or a severe inconvenience to the utility.

(2) Districts subject to flood are excepted from this rule as far as it applies to the location of meters.

(3) Proper provision shall be made by the customer for [the] installation of the utility's meter. Unless the meter is to be mounted upon a panel or installed within a cabinet, such provision shall consist of a board not less than three-quarters (3/4) of an inch in thickness which shall be mounted not less than five (5) or not more than seven (7) feet from the floor, and in general as near as possible to [the] point of entrance of [the] service. At least six (6) inches clear space shall be available, on all sides of the meter board and not less than thirty (30) inches in front of it. The above provisions as to method of mounting and height from floor do not apply to the installation of weatherproof outdoor meters [of the weatherproof type]. Electric meters shall not be installed [in] close [proximity] to either water or gas meters or anything liable to [cause] damage [to] the meter, thereby constituting a hazard to customer's safety and continuous service.

(4) When more than one (1) meter is installed without a meter cabinet in the same building, proper space shall be allotted and provision made by the customer for locating the meters at one (1) place. When a number of meters are placed in the same cabinet or upon the same board, each meter shall be tagged or marked to indicate the circuit metered by it.

Section 19. Overhead and Underground Wire Entrances. (1) The overhead wire entrance shall be located on the exterior of the building nearest the utility's lines at a point not less than twelve (12) nor more than thirty (30) feet above the ground. When proper ground clearance cannot be obtained due to height of building, a proper supporting structure shall be provided by the customer unless arrangements can be made with the utility whereby their overhead service wires can be carried to the building in such a manner that these wires will not constitute an obstruction to [the] free passage of vehicles or fire fighting apparatus.

(2) Approval shall be obtained from the utility as to the proper location for a service entrance.

(3) New service drops [entrances], both overhead and underground, shall be installed in accordance with the National Electric Safety

Code [and the National Electrical Code [heretofore adopted].

Section 20. [The] Operation of Illegal Gambling Devices. (1) When an electric utility, subject to the jurisdiction of this commission, is notified in writing by a federal or state law enforcement agency, [or by] the Attorney General of Kentucky, [or by] a Commonwealth's Attorney or [by] a County Attorney acting in his official capacity, that [the] electric energy furnished by it is being used or will be used for [the purpose of] operating an illegal gambling device, it shall discontinue rendering electric service to such customer, after reasonable notice to the customer. [, but] No damages, penalty or forfeiture, civil or criminal, shall be found against any electric utility for any act done in compliance with any such notice received from the law enforcement agency or officer. Nothing in this section shall be deemed to prejudice the right of any person affected thereby to secure an appropriate judicial determination that such service should not be discontinued, or should be restored.

(2) As provided by KRS 278.230, any electric utility subject to commission [the] jurisdiction [of this commission] shall furnish to the commission upon request [on its demand] any records or information in the possession of such electric utility that may assist in the enforcement of this rule.

Section 21. Underground Electric Distribution Systems for New Residential Customers [Subdivisions]. (1) Purpose of rules. To formulate requirements for underground electric distribution systems for all new customers of those systems [in new residential subdivisions,] which will insure safe and adequate service and which will be uniformly applicable within a utility's service area.

(2) Applicability. New residential customers and subdivisions as defined below after the effective date of this rule.

[(3) Definitions. The following words and terms, when used in these rules, shall have the meaning indicated:]

[(a) Applicant: the developer, builder or other person, partnership, association, corporation or governmental agency applying for the installation of an underground electric supply system.]

[(b) Building: a structure enclosed within exterior walls or fire walls, built, erected and framed of component structural parts and designed for less than five (5) family occupancy.]

[(c) Multiple-occupancy buildings: a structure enclosed within exterior walls or fire walls, built, erected and framed of component structural parts and designed to contain five (5) or more individual dwelling units.]

[(d) Distribution system: electric service facilities consisting of primary and secondary conductors, transformers, and necessary accessories and appurtenances for the furnishing of electric power at utilization voltage.]

[(e) Subdivision: a tract of land which is divided into ten (10) or more lots for the construction of new residential buildings, or for the construction of two (2) or more new multiple occupancy buildings.]

(3) [(4)] Rights of way and easements.

(a) The utility shall construct, own, operate and maintain distribution lines only along easements, public streets, roads and highways which are by legal right accessible to the utility's equipment and which the utility has [the] legal right to occupy, and on [the] public lands and private property across which rights of way and easements satisfactory to the utility may be obtained without cost or condemnation by the utility.

(b) Rights of way and easements suitable to the utility for [the] underground distribution facilities shall [must] be furnished by the applicant in reasonable time to meet service requirements. The utility may require that the applicant make the area in which [the] underground distribution facilities are to be located accessible to the company's equipment, remove all obstructions from such area, stake to show property lines and final grade, perform rough grading to [a] reasonable approximation of final grade, and maintain clearing and grading during construction by the utility. The utility may require that suitable land rights be granted to it, obligating the applicant and subsequent property owners to provide continuing access to the utility for operation, maintenance or replacement of its facilities, and to prevent any encroachment in the utility's easement or substantial changes in grade or elevation [thereof].

(4) [(5)] Installation of underground distribution system within new subdivision.

(a) Where appropriate contractual arrangements have been made, the utility shall install within the subdivision an underground electric distribution system of sufficient capacity and suitable materials which, in its judgment, will assure that the property owners will receive safe and adequate electric service for the foreseeable future.

(b) Facilities required to be underground:

1. All single phase conductors installed by the utility shall be underground. Appurtenances such as transformers, pedestal-mounted terminals, switching equipment and meter cabinets may be placed above ground.

2. Three (3) phase primary mains or feeders required within a subdivision to supply local distribution or to serve individual three (3) phase loads may be overhead unless underground is required by governmental authority or chosen by the applicant, in either of which case the differential cost of underground shall be borne by the applicant.

(c) If the applicant has complied with the requirements herein and with the utility's specifications on file with the commission, and has given the utility not less than 120 days written notice prior to [the] anticipated date of completion (i.e., ready for occupancy) of the first building in the subdivision, the utility shall complete [the] installation thirty (30) days prior to [the] estimated completion date. (Subject to weather and ground conditions and availability of materials and barring extraordinary or emergency circumstances beyond [the] reasonable control of the utility.) However, nothing in these regulations shall be interpreted to require the utility to extend service to portions of [the] subdivisions not under active development.

(5) [(6)] Schedule of charges.

(a) Within sixty (60) days after the effective date of these rules, each utility shall file with the commission a statement setting forth

the utility's policy with respect to electric underground extensions [in residential subdivisions]. Such policy shall provide for [a] payment [to be made] by the applicant for [the purpose of giving effect to] the difference between the cost of providing underground facilities and that of providing overhead facilities. The payment [to be] made by applicant shall be expressed in terms of an amount per foot of conductor or other appropriate measure.

(b) The utility's policy as filed with the commission shall set forth an "estimated average cost differential," if any, between the average or representative cost of underground distribution systems [in residential subdivisions] and of equivalent overhead distribution systems within the utility's service areas. The payment [to be] made by [the] applicant as provided for in paragraph (a) of this subsection shall not be more than the [such] estimated average cost differential and shall be nonrefundable.

(c) Detailed supporting data used to determine [the] estimated average cost differential shall be concurrently filed by the utility with the commission and shall be updated annually.

(d) [The] Applicant may be required to deposit the entire estimated cost of the extension. If this is done, the amount deposited in excess of the normal charge for underground extensions, as provided in paragraph (a) of this subsection, shall be refunded to the applicant over a ten (10) year period as provided in Section 11 of this regulation.

(e) Upon agreement by both parties, if the applicant [should] chooses to perform all necessary trenching and backfilling in accordance with utility specifications, the utility shall credit [the] applicant's cost in an amount equal to the utility's cost for trenching and backfilling.

(f) Utility extension from the property or boundary of the subdivision to its existing supply facilities shall normally be made overhead, and any deposit required for that extension [therefor] is subject to refund under Section 11 of this regulation. Upon request, such extension may be made underground, if the applicant agrees to pay the excess cost for the underground extension, which excess cost shall be nonrefundable.

(g)1. Point of service shall be that point where utility [the] facilities [of the utility] join [the] customer['s] facilities, irrespective of the location of the meter. [and] Such point of service shall [will] normally be either at the property line or at the corner of the building nearest the point at which [the] underground systems enter the property to be served, depending upon whether the utility or the customer owns the underground service lateral.

2. If established utility practice dictates service termination at the customer's property line, the utility shall credit the applicant fifty (50) dollars or the equivalent cost of an overhead service line to the applicant's meter base, whichever is greater.

3. Where established utility practice does not dictate service termination at the customer property line, the utility shall include in its underground plan the furnishing, installation, ownership, and maintenance of the service lateral to the meter base providing the applicant installs in the building adequate electric service entrance capacity to the satisfaction of the utility to assure that the underground service conductors will be adequate to handle present and future load requirements of the building. [; and] In this instance the utility will determine the size and type of [the] service lateral conductors and appurtenances to be used in any installation.

4. If, by mutual agreement of the parties, service terminates at some other point on the building or property, the applicant shall pay the full cost of any additional extension required in excess of that provided for in paragraph (g)1, 2 and 3 of this subsection.

(h) When an existing utility-owned supply circuit or service lateral requires replacement or reinforcement due to added loads, etc., the utility at its expense will replace or reinforce it.

(i) Nothing in this regulation [herein contained] shall be construed to prevent any utility from assuming [all or] any part of the cost differential of providing underground distribution systems within subdivisions, provided the utility demonstrates to the [satisfaction of the] commission that such practice will not result in increased rates to the general body of rate payers.

(j) The utility shall not be obligated to install any facility within a subdivision until satisfactory arrangements for [the] payment of charges have been completed by the applicant.

(6) [(7)] Cooperation by applicant. [The] Charges specified in these rules are based on the premise that each applicant will cooperate with the utility in an effort to keep the cost of construction and installation of the underground electric distribution system as low as possible and make satisfactory arrangements for [the] payment of the above charges prior to [the] installation of the facilities.

(7) [(8)] Construction. All electrical facilities shall be installed and constructed to comply with applicable codes. [and the] rules and regulations of the commission.

Section 22. Deviations from Rules. In special cases for good cause shown [applications to and approval by,] the commission may permit deviations from these rules.

GEORGE EDWARD OVERBEY, JR., Chairman
THEODORE T. COLLEY, Secretary

APPROVED BY AGENCY: February 14, 1990

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

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on March 21, 1990, at 10 a.m. at the Public Service Commission's office, Hearing Room No. 1, 730 Schenkel Lane, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by March 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 received. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written

notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Lee M. MacCracken, Executive Director, Public Service Commission, 730 Schenkel Lane, P.O. Box 615, Frankfort, Kentucky 40602.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Lee M. MacCracken

(1) Type and number of entities affected: This regulation affects 29 electric utilities under the jurisdiction of the agency.

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

1. First year: Section 7(1): Each electric utility will be required to have two rather than one recording or graphic voltmeter for measuring voltage, thereby keeping one in continuous use at all times. Most utilities already have at least two meters. Section 21: There may be insignificant increased operating costs for the utility in the application of underground electric distribution systems requirements for all new residential customers, not just in new subdivisions; however, most utilities have already adopted this application.

2. Continuing costs or savings: Any continuing costs or savings, if any, will be insignificant and will be absorbed in operating expenditures and returned in rates.

3. Additional factors increasing or decreasing costs (note any effects upon competition): Section 11(1): Quantification of distribution line extensions fairly attributes costs of extending service, i.e. customers who require more than 25 KVA may be required to pay the extra costs involved in extension. Any anticipated costs to the utility will be offset by less restrictive requirements in Sections 6(3), 7(1), 11(1), and 15(3).

(b) Reporting and paperwork requirements: Section 7(1): Utilities will be required to maintain voltage surveys for three calendar years. There will be no other discernible increase in reporting requirements.

(2) Effects on the promulgating administrative body: The majority of language changes are either for compliance with revised industry standards, to meet new drafting rules for clarification, or to upgrade to universally accepted technological terminology.

(a) Direct and indirect costs or savings: Changes will have no fiscal impact on the agency.

1. First year: There will be no fiscal impact.

2. Continuing costs or savings: There will be no fiscal impact.

3. Additional factors increasing or decreasing costs: There are none.

(b) Reporting and paperwork requirements: There will be no increase or decrease in current overall reporting requirements.

(3) Assessment of anticipated effect on state and local revenues: There will be no impact on state or local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Majority of changes reflect editorial and clarification changes and upgrading to accepted terminology.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No conflict with current laws or policies has been identified.

(a) Necessity of proposed regulation if in conflict: No conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: No conflict.

(6) Any additional information or comments: No additional comments.

TIERING: Was tiering applied? No. This is not a new regulation. Tiering was not necessary; most changes are editorial or clarifying in nature.

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

815 KAR 7:010. Administration and enforcement.

RELATES TO: KRS Chapter 198B

STATUTORY AUTHORITY: KRS 198B.040(7), 198B.050

NECESSITY AND FUNCTION: The Kentucky Board of Housing, Buildings and Construction is required by KRS 198B.040(7) to adopt and promulgate a mandatory uniform state building code, and parts thereof, which shall establish standards for construction of all buildings in the state. This regulation establishes the administration and enforcement sections of the Kentucky Building Code. This amendment is necessary to clarify the conditions for continuing a lawful use of the building and to identify the criteria for approval of the building official when a change of use occurs [bring the regulation into technical compliance with KRS Chapter 13A by making amendments and deletions in Sections 1, 22, 23 and 24].

Section 1. Definitions Used in Title 815, Chapter 7. (1) "Board of Housing" or "board" means the Kentucky Board of Housing, Buildings and Construction.

(2) "BOCA" means Building Officials and Code Administrators International, Inc.

(3) "Building" as defined by KRS 198B.010(4).

(4) "Commissioner" as defined by KRS 198B.010(11).

(5) "Department" as defined by KRS 198B.010(13).

(6) "Fire official" means the chief of the fire department or of the fire prevention bureau, or if there is not a jurisdiction fire department or fire prevention bureau, such officer as shall be designated by the appointing authority of the jurisdiction, or his duly appointed representative, to enforce the provisions of KRS 227.300 and 815 KAR 10:020.

(7) "Industrialized building system" or "building system" as defined in KRS 198B.010(18) and applies to a building of any size or for any use all or any component part of which is of closed construction made from precast concrete panels, or precut wood sections fabricated to individual specifications in an off-site manufacturing facility and assembled in accordance with the manufacturer's instructions.

(8) "KAR" means Kentucky Administrative Regulations.

(9) "KBC" means the Kentucky Building Code as established in this chapter.

(10) "KRS" means Kentucky Revised Statutes.

(11) "Major structural change" means structural alterations and structural repairs made within any twelve (12) month period costing in excess of fifty (50) percent of the physical

value of the structure, as determined by comparison of the extent/value of the alterations involved and the replacement value of the structure at the time the plans for the alterations are approved, using the BOCA Chart for Construction Cost.

(12) "Person" means a person, partnership, corporation or other legal entity.

(13) "Single family dwelling" means one (1) unit providing complete independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation, and which is not connected to any other unit or building.

(14) "Trade or brand name house" means any single structure made of precut or prefabricated panels, sections or individual pieces that are sold or prefabricated under a name that identifies both the manufacturer and a particular type of structure he makes, and that are assembled on a permanent foundation by conventional home-building and electrical and plumbing installation techniques.

Section 2. Scope. This regulation shall supersede any and all other conflicting administration and enforcement provisions which may be incorporated by reference within the KBC.

(1) The KBC shall control all matters concerning the construction, alteration, addition, remodeling, use and occupancy classifications of all buildings in the state.

(2) Trade or brand name houses shall be constructed in accordance with the applicable provisions of the KBC.

(3) The provisions of the KBC relating to single family dwellings, that are not trade or brand name houses or industrialized building systems, shall be mandatory only after a local government, by ordinance, extends the application of the KBC to those units. However, the state plumbing code and the national electrical code shall be applicable to these units, whether or not the local government passes an ordinance. A local government may not enforce any building code other than the KBC on such units.

(4) Unless otherwise specifically provided within the KBC, all references to article or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such article, section or provision of the KBC.

(5) The provisions of this code relating to the construction, repair, alteration, enlargement, restoration and moving of buildings or structures shall not be mandatory for existing buildings or structures identified and classified by the state or local government authority as historic buildings, subject to the approval of the board of appeals when such buildings are judged by the building official to be safe and in the interest of public health, safety and welfare regarding any proposed construction, alteration, repair, enlargement, restoration and relocation. The building official may require submission of architectural and engineering plans and specifications bearing the professional seal of the designer prior to a determination.

(6) The KBC shall be construed to secure its expressed intent which is to secure public safety, health and welfare insofar as they are affected by building construction quality, electrical systems, plumbing, energy, boiler safety, handicapped accessibility, life safety from hazards of fire and explosion and other disasters. It is the further expressed intent of this code to avoid duplicative plan review and inspection of new construction and to gather together in one (1) set of regulations all the requirements relating to the construction of buildings in the state to enable builders, owners and building officials to be adequately informed.

Section 3. Applicability. (1) The provisions of the KBC shall cover all matters affecting or relating to buildings, and structures, as set forth in Section 2 of this regulation.

(2) No person shall construct a building or structure, extend, repair, remove or alter in violation of these provisions, except for ordinary repairs as defined in Section 4 of this regulation, and except further that the raising, lowering or moving of a building or structure as a unit necessitated by a change in legal grade or widening of a street shall be permitted provided the building or structure is not otherwise altered or its use or occupancy changed.

(3) Any requirement essential for structural, fire or sanitary safety of a building essential for the safety of the occupants thereof, and which is not specifically covered by this code, shall be determined by other regulations of the department or other applicable law.

(4) Any person who violates any provision of the article or any other provision of the Kentucky Building Code shall be subject to the penalties provided in Section 19 of this regulation.

Section 4. Ordinary Repairs. Ordinary repairs to structures may be made without application or notice to the building official. Ordinary repair means any nonstructural reconstruction or renewal of any part of an existing building for the purpose of its maintenance or decoration, and shall include, but not be limited to, the replacement or installation of nonstructural components of the building such as roofing, siding, windows, storm windows, insulation, drywall or lath and plaster, or any other replacement, in kind, that does not alter the structural integrity, alter the occupancy or use of the building, or affect, by rearrangement, exitways and means of egress; but shall not include additions to or alteration of, or relocation of any standpipe, water supply, sewer, drainage, gas, soil, waste, vent or similar piping, electric wiring or mechanical equipment including furnaces and hot water heaters or other work affecting public health or safety.

Section 5. Installation of Service Equipment. When the installation, extension, alteration or repair of an elevator, moving stairway, mechanical equipment, refrigeration, air conditioning or ventilating apparatus, plumbing, gas piping, electrical wiring, heating system or other equipment is specifically controlled by the provisions of this code, it shall be unlawful to use such equipment until a certificate of approval has been issued therefor by the building official or other agency having jurisdiction.

Section 6. Existing Structures. (1) Continuation of existing use. The legal use and occupancy of any structure existing on the date of adoption of this code or for which it has been heretofore approved may be continued without change, except as may be specifically covered in this code, the Kentucky Standards of Safety (Fire Prevention Code), or the existing structures code adopted by local ordinance, [existing structures or fire prevention codes set forth in 815 KAR 10:020 or] as may be deemed necessary by the building official for the general safety and welfare of the occupants and the public.

(2) Change in use. It shall be unlawful to make any change in the use [or occupancy] of any structure or portion thereof which would cause a greater hazard to the public because of increased structural or fire loading or inadequate exits for the number of occupants [subject it to any special provisions of this code] without approval of the building official; such approval shall be granted if the building official finds that such structure meets the intent of the provisions of law governing building construction for the proposed new use and occupancy, and that such change does not result in any greater hazard to public safety or welfare. In making his decision, the building official may require a written opinion from a design professional.

(3) Additions, alterations or repairs. Additions, alterations or repairs may be made to any structure without requiring the existing structure to comply with all the requirements of this code, provided such work conforms to that required of a new structure. Additions, alterations or repairs shall not cause an existing structure to become unsafe or adversely affect the performance of the building. Any building plus new additions shall not exceed the height, number of stories and area specified for new buildings.

(4) Alterations or repairs to an existing structure which are nonstructural and do not adversely affect any structural member of any part of the structure having a required fire resistance rating may be made with the same materials of which the structure is constructed.

Section 7. Departments of Building Inspection. (1) Each local government singularly or by association with other local governments shall employ a building official or inspector and other code enforcement personnel as necessary to enforce this code within its jurisdiction. The department shall be responsible for the enforcement of this code as it pertains to the buildings assigned by law to it.

(2) All building officials shall be appointed by the chief appointing authority for the respective jurisdictions and shall meet the qualifications for the position which may be established by the appointing authority, in addition to the requirements for certification of Kentucky building code inspectors as detailed in 815 KAR 7:070.

(3) Official records shall be kept of all business and activities of the various local building departments or state building departments specified in provisions of the KBC, and all such records shall be open to the public inspection at all appropriate times under the terms and conditions of KRS Chapter 61.

Section 8. Duties and Powers of the Building Official. The local governments shall designate the persons to be charged with the responsibility of enforcing the KBC within its community and it shall neither adopt nor enforce any ordinance regulating buildings which conflicts with the KBC. The local building official shall be responsible for the examination and approval of plans and specifications and the inspections necessary to determine compliance for the following buildings:

(1) All buildings classified as storage, residential, miscellaneous or utility occupancies so long as they do not exceed three (3) stories in height or 20,000 square feet of floor area.

(2) All buildings classified as assembly business or mercantile occupancies having a capacity which does not exceed 100 persons.

(3) All churches having a capacity of 400 or less persons and 6,000 or less square feet of total floor area.

(4) All buildings classified as factory or industrial occupancies having a capacity which does not exceed 100 persons.

(5) Buildings owned by the Commonwealth are not subject to local plan review, inspection or approval, regardless of size, occupant load or occupancy classification.

Section 9. Duties and Powers of the Department. (1) It shall be the responsibility of the department to review plans and specifications, issue permits, make inspections and to determine compliance with the KBC for the following buildings:

(a) All buildings classified as assembly occupancies having a capacity in excess of 100 persons, except churches having a capacity of 400 or less persons and 6,000 or less square feet of total floor area;

(b) All buildings classified as educational occupancies;

(c) All buildings classified as institutional occupancies;

(d) All buildings classified as business and mercantile occupancies having a capacity in excess of 100 persons;

(e) All buildings classified as industrial and factory occupancies having a capacity in excess of 100 persons;

(f) All frozen food locker plants;

(g) All buildings classified as high hazard occupancies;

(h) All other buildings containing in excess of three (3) stories or 20,000 square feet of floor area;

(i) All industrialized building systems regardless of occupancy classification;

(j) All buildings owned by the Commonwealth, regardless of occupancy classification or size.

(2) Any local government may petition to the department for additional plan review responsibility. Such petition shall include the evidence of the local governments capability to perform those functions, as required by regulations of the board. Denials of such petitions are appealable to the board.

(3) The appropriate official shall make all the required inspections, or he may accept reports of inspection by authoritative and recognized services or individuals; and all reports of such inspections shall be in writing and certified by a responsible officer of such authoritative service or by the responsible

individual.

(4) The building official or his authorized representative should carry proper credentials of his respective office for the purpose of inspecting buildings and premises and the performance of his duty under this code.

(5) The board shall have the powers as may be necessary in the interest of public safety, health and general welfare, to adopt and promulgate amendments to the code and other rules and regulations which are necessary to implement this code and by means of the appeals board procedures to issue interpretations which shall be binding upon the appellee and the building officials. The building official shall implement the provisions of this code to secure the intent thereof.

(6) In the absence of provisions not specifically contained in this code or approved rules and orders, the regulation, specifications and standards listed in Appendix A "Referenced Standards" of the 1987 Edition of BOCA National Building Code filed herein by reference, shall be deemed to represent accepted engineering practice with respect to materials, equipment, system or method of construction therein specified, and shall therefore be acceptable.

Section 10. New Materials and Modifications. (1) It is the purpose of the KBC to set forth performance objections so as to facilitate new technologies, techniques and materials; therefore, alternate materials and equipment may be used provided such an alternative has been tested and listed by nationally recognized testing and research laboratories approved by the board.

(2) The building official may accept supporting data to assist him in his determinations: duly authenticated research reports from BOCA or from other approved authenticated sources for all materials or assemblies proposed for use which are not specifically provided for in the KBC.

(3) Used materials, equipment and devices may be used provided they have been retested and placed in good and proper working condition and approved by the building official.

(4) When there are practical difficulties involved in carrying out structural or mechanical provisions of this code or of an approved rule, the building official having plan review responsibility may vary or modify such provision upon application of the owner or his representative only if the spirit and intent of the law shall be observed and equivalent safeguards provided. The application for modification and the final decision of the building official shall be in writing. When a modification is granted by a local building official, a copy of the application and the decision shall be forwarded to the department and the local fire official.

(5) The board may withdraw authority for plan review from a local building department where it finds, upon petition of the department, that the local inspection agency is not adequately performing any portion of its program and, thereafter, allow the department to preempt that portion of a local program.

Section 11. Inspections. (1) Before issuing a permit the appropriate building officials may examine or cause to be examined all buildings, structures and sites for which an application has been filed for a permit required by this code. No construction shall begin on buildings covered by this regulation until a local building official has issued a permit for such construction and an official representing the department has issued a letter releasing the plans for construction (if it has plan review responsibility).

(2) After issuing a building permit for a building over which he has plan review responsibility the building official shall conduct inspections from time to time during and upon completion of work and he shall maintain a record of all such examinations and inspections and of all violations of the KBC.

(3) The building official may accept reports of approved inspection services which satisfy the requirements of the appropriate governmental entity.

(4) Inspections for KBC compliance of trade or brand name homes shall be the responsibility of the local building official.

(5) In-plant inspections in production and manufacturing facilities for industrialized building systems as well as on-site inspection shall be conducted by the department or its authorized agent pursuant to 815 KAR 7:020. The local building official shall be responsible to inspect such system only for location under applicable local ordinances.

(6) Upon completion of the building, the owner or agent of the facility shall request a final inspection; the building official shall set a time for said inspection and notify the owner or agent. If compliance with the approved plans and permit has been achieved, a certificate of occupancy shall be issued, as described in Section 17 of this regulation. If compliance has not been achieved, any violations shall be noted and immediately communicated to the owner or agent and the fire official.

(7) The building official shall cooperate with the fire official by allowing the fire official to inspect all buildings during construction. Any recommendations made by the fire official relating to fire safety in construction of a building shall be considered by the building official and if a certificate of occupancy is issued contrary to said written recommendations the building official shall give written notification of his decision to the fire official and the department at once.

Section 12. Right of Entry. Applicants for building permits shall be deemed to consent to inspection during construction and upon completion of construction for the purpose of determining that such building is constructed in compliance with the Kentucky Building Code, and the inspector may enter upon the premises during any reasonable hour.

Section 13. Application for Permit Required. (1) It shall be unlawful to construct, enlarge, or alter a structure; or change the type of occupancy of a building requiring greater strength, exiting or sanitary provisions; or to change to another use; or to install or alter any equipment for which provision is made or the installation of which is required by KBC, without first filing an application with the appropriate building officials in writing and obtaining the required permit therefor; except that ordinary repairs, as defined in Section 4 of this regulation, which do not involve any

violation of KBC shall be exempt from this provision.

(2) The application for a permit shall be submitted in writing and in such form as the department may prescribe and shall be accompanied by the required fee.

(3) The application shall contain a general description of the proposed work, its location, the use and occupancy of all parts of the building or structure and of all portions of the site or lot not covered by the building or structure, and such additional information as may be required by the building official.

(4) Application for permit shall be made by the owner or lessee of the building or structure, or agent of either, or by the licensed engineer or architect employed in connection with the proposed work. If the application is made by a person other than the owner in fee, it shall be accompanied by a duly verified affidavit of the owner or the qualified person making the application that the proposed work is authorized by the owner in fee and that the applicant is authorized to make such application. The full names and addresses of the owner, lessee, applicant and of the responsible officers, if the owner or lessee is a corporate body, shall be stated in the application.

(5) The application for the permit shall be accompanied by specifications and plans drawn to scale, with sufficient clarity and detail dimensions to show the nature and character of the work to be performed. The building official shall cooperate with the fire official by allowing the fire official to review all plans. Any recommendations made by the fire official relating to fire safety in construction of a building shall be considered by the building official and he shall report his decision to the fire official at once. When quality of materials is essential for conformity to the KBC, specific information shall be given to establish such quality; and the KBC shall not be cited, or the term "legal" or its equivalent be used, as a substitute for specific information. The building official may waive the requirement for filing plans when the work involved is of a minor nature.

(6) Site plan. There shall also be a site plan showing to scale the size and location of all the new construction and all existing structures on the site, distances from lot lines, the established street grades and the proposed finished grades; and it shall be drawn in accordance with an accurate boundary line survey.

(7) Engineering details. The building official may require adequate details of structural, mechanical and electrical work including computations, stress diagrams and other essential technical data to be filed. All engineering plans and computations shall bear the signature of the responsible design professional. Plans for buildings more than two (2) stories in height shall indicate how required structural and fire resistance rating integrity will be maintained, and where a penetration will be made for electrical, mechanical, plumbing and communication conduits, pipes and systems.

(8) An application for permit for any proposed work should be deemed to have been abandoned six (6) months after date of filing, unless such application has been diligently prosecuted or a permit shall have been issued; except that for reasonable cause, the building official may grant one (1) or more extensions of time for additional periods not exceeding ninety (90) days each.

(9) Subject to the limitations of Section 13 of this regulation, amendments to a plan, application or other records accompanying the same may be filed at any time before completion of the work for which the permit is sought or issued; and such amendments shall be deemed a part of the original application and shall be filed therewith.

(10) The building official may revoke a permit or approval issued under the KBC in case of any false statements or misrepresentation in the application or on the plans.

Section 14. Permits Required. (1) The building official shall examine or cause to be examined all applications for permits and amendments thereto within a reasonable time after filing. If the application or the plans do not conform to the requirements of all pertinent laws, he shall reject such application in writing, stating the reasons therefor. If he finds that the proposed work conforms to the requirements of this code and all laws and ordinances applicable thereto, he shall issue a permit therefor as soon as practicable.

(2) Any permit issued shall become invalid if the authorized work is not commenced within one (1) year after issuance of the permit, or if the authorized work is suspended or abandoned for a period of six (6) months after the time of commencing the work.

(3) The KBC shall not require changes in the plans, construction or designated use of a building for which a lawful permit has been theretofore issued or otherwise lawfully authorized by approved plans, so long as the substantial construction on the project has commenced within one (1) year from the date the permit was issued.

(4) The building official shall attach his signature to every permit, or he may authorize a subordinate to affix such signature thereto.

(5) The building official shall record and communicate to the owner or agent, the terms and conditions related to his approval to commence construction.

(6) The building official may issue a permit for the construction of foundations or any other part of a building or structure before the entire plans and specifications for the whole building or structure have been submitted, provided adequate information and detailed statements have been filed complying with all the pertinent requirements of this code. The holder of such permit for the foundations or other part of a building or structure shall proceed at his own risk with the building operation and without assurance that a permit for the entire structure will be granted.

(7) Approved plans. The building official shall stamp or endorse in writing the corrected plans approved, and that set shall be available at the building site, open to inspection of the building official or his authorized representative at all reasonable times.

(8) A true copy of the building permit shall be available on the site of operation open to public inspection during the entire time of prosecution of the work and until the completion of the same.

Section 15. Conditions of Permit. (1) A permit shall not be issued until the fees prescribed by the department or the local government have been paid. The permit shall be a license to proceed with the work and shall not be construed as authority to violate, cancel or set aside any of the provisions of the KBC, except as specifically stipulated by modification or legally granted variation as described in the permit.

(2) All work shall conform to the appropriate application and plans for which the permit has been issued and any approved amendments thereto and shall be located strictly in accordance with the approved plot plan and any local ordinances governing the location of the building.

(3) A lot shall not be changed, increased or diminished in area from that shown on the official plot site plan, unless a revised plan showing such changes accompanied by the necessary affidavit of owner or applicant shall have been filed and approved, except that such revised plan will not be required if the change is caused by reason of an official street opening, street widening or other public improvement.

Section 16. Fees. (1) A permit to begin work for new construction, alteration, removal, or other building operations shall not be issued until the fees prescribed by law shall have been paid to the department or local building department, nor shall an amendment to a permit necessitating an additional fee because of an increase in the estimated cost of the work involved be approved until the additional fee shall have been paid.

(2) The payment of the fee for construction, alteration, and for all work done in connection with or concurrently with the work contemplated by a building permit shall not relieve the applicant or holder of the permit from the payment of other fees that may be prescribed by law or ordinance for water taps, sewer connections, electrical permits, erection of signs and display structures, marquees or other appurtenant structures, or fees of inspections, certificates of use and occupancy or other privileges or requirements, both within and without the jurisdiction of building inspection.

(3) The fee for building permits and other functions performed pursuant to KRS Chapter 198B may be designed to fully cover the cost of the service performed; and the department and each local government is authorized to establish by approved rules or ordinances a schedule of unit rates for buildings and structures of all use groups and type of construction as classified and defined in the KBC.

Section 17. Certificate of Use and Occupancy. (1) No building on which site preparation and assembly were begun, after the Kentucky Building Code becomes effective as to that building, shall be occupied until the appropriate building official issues a certificate of occupancy certifying that the building was constructed in conformance with the standards of the Kentucky Building Code, or assembled or installed in conformance with applicable instructions; except that: a building for which a permit was legally granted prior to the effective date of the KBC may be constructed and occupied under the provisions of relevant regulations in force at the time the permit was issued provided that substantial construction has commenced within one (1) year from the date the permit was issued.

(2) A building or structure hereafter enlarged, extended or altered to change from one (1) use group to another or to a different use within the same use group, in whole or part, and a building or structure hereafter altered for which a certificate of use and occupancy has not been heretofore issued, shall not be occupied or used until the certificate shall have been issued by the building official, certifying that the work has been completed in accordance with the provisions of the approved permit; except that any use or occupancy, which was not discontinued during the work alteration, shall be discontinued within thirty (30) days after the completion of the alteration unless the required certificate is secured from the building official.

(3) After a change of use has been made in a building or structure, the reestablishment of a prior use that would not have been legal in a new building of the same type of construction is prohibited unless the building complies with all applicable provisions of this code. A change from one (1) prohibited use, for which a permit has been granted to another prohibited use shall be deemed a violation of this code.

(4) Upon the request of the holder of a permit, the building official may issue a temporary certificate of occupancy for a building or structure, or part thereof, before the entire work covered by the permit shall have been completed, provided such portion or portions may be occupied safely prior to full completion of the building or structure without endangering life or public welfare.

(5) When a building or structure is entitled thereto, the building official shall issue a certificate of use and occupancy within ten (10) days after written application. The certificate shall certify compliance with the provisions of this code and the purpose for which the building may be used in its several parts. The certificate of use and occupancy may specify the following information from the 1987 edition of the BOCA National Building Code: the use group, in accordance with the provisions of Article 3; the fire grading as defined in Article 3 and Table 902; the maximum live load on all floors as prescribed in Article 11; the occupancy load in the building and all parts thereof as defined in Article 3 and Article 8; and any special stipulations and conditions of the building permit.

Section 18. Posting Structures. (1) Every building and structure and part thereof designed for business, factory and industrial, high hazard, mercantile, or storage use (use groups B, F, H, M, and S) as defined by the KBC shall be posted on all floors by the owner with a suitably designed placard in a form designated by the department, which shall be securely fastened to the structure in a readily visible place, stating: the use group, and the occupancy load.

(2) Every room constituting a place of assembly shall have the occupancy load of the room posted in a conspicuous place, near the main exit from the room. Approved signs shall be maintained in a legible manner by the owner or his authorized agent. Signs shall be durable and shall indicate the number of occupants permitted for each room use.

(3) All posting signs shall be furnished by the owner and shall be of permanent design; they shall not be removed, or defaced and, if lost, removed or defaced, shall be immediately replaced.

Section 19. Violations and Remedies. (1) It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, remove, use or occupy any building or structure or equipment regulated by the KBC, or cause same to be done, contrary to or in conflict with or in violation of any of the provisions of this code.

(2) The building official shall serve a notice of violation or order on the person responsible for erection, construction, alteration, extension, repair, removal, demolition, use or occupancy of a building or structure in violation of this code or in violation of a detail statement or a plan approval thereunder, or in violation of a permit or certificate issued under the provisions of this code; and such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

(3) If the notice of violation is not complied with promptly, the building official shall request the legal counsel of the jurisdiction to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation or to require the removal or termination of the unlawful use of the building or of the order or direction made pursuant thereto.

(4) Penalties. Any person who shall violate a provision of the KBC or shall fail to comply with any of the requirements thereof or who shall erect, construct, alter or repair a building or structure in violation of an approved plan or proper direction of the building official, or of a permit or certificate issued under the provisions of the KBC, shall be subject to such penalties as may be provided by KRS 198B.990 and other applicable law.

(5) Injunctive relief. The department or any local agency enforcing the uniform state building code may obtain injunctive relief from any court of competent jurisdiction to enjoin the offering for sale, delivery, use, occupancy or construction of any building on which construction was begun after the effective date of said code, upon an affidavit of the department or the local government agency specifying the manner in which the construction, or if a building existing prior to the effective date of said code, the reconstruction, alteration, repair or conversion does not conform to the requirements of the KBC.

(6) No person shall hinder an inspector enforcing any of the provisions of this code in the performance of his lawful duties under this chapter.

Section 20. Notice to Owner. (1) Upon notice from the building official that work on any building or structure is being prosecuted contrary to the provisions of this code or in an unsafe and dangerous manner, such work shall be immediately stopped. The stop-work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work; and shall state the conditions under which work may be resumed.

(2) Unlawful continuance. Any person who shall continue any work in or about the structure after having been served with a stop-work order, except such work as he is directed to perform to remove a violation or unsafe conditions, shall be liable to the restraints provided in Section 19 of this regulation.

Section 21. Authority for Existing Buildings. (1) Upon the issuance of a final approval of a facility and the issuance of a lawful certificate of occupancy with respect to a particular facility, the building official's authority and responsibility as to that facility is ended so far as the KBC is concerned, unless the facility later becomes subjected to the KBC by virtue of Section 6 of this regulation.

(2) Other local or state law must be consulted to determine the existence of other powers given to the building official, such as those related to demolition or authority over unsafe structures, which are not specifically awarded him or her in the KBC.

(3) The State Fire Marshal's Office and the local fire official designated by the local government shall continue to be the persons responsible for enforcement of the fire safety standards for existing buildings and shall also inspect for fire safety maintenance after a building has been given a final certificate by the building official, under KRS Chapter 227, and 815 KAR 10:020.

Section 22. Local Board of Appeals. Local appeals boards may be appointed to hear the decisions of the local building official in accordance with the provisions of KRS 198B.070.

Section 23. Appeals Procedures. (1) All appeals to the decisions of building officials shall be conducted in accordance with the appeals provisions of KRS 198B.070. The local fire official shall be considered a party entitled to the appeals procedures described in KRS 198B.070.

(3) Appeals to the board shall be in writing and shall be addressed to the Commissioner of Housing, Buildings and Construction, The 127 Building, U.S. 127 South, Frankfort, Kentucky 40601; Attention: Appeals Board. Such appeals shall include citations of those provisions of the Kentucky Building Code which are at issue, an explanation as stated in subsection (3) of this section of why the decision of the state building official or local building official relative to those provisions is being contested and a copy of the decision rendered by the local appeals board, if any.

Section 24. Construction Control and Responsibilities. (1) The provisions of this section shall define the responsibility of the building official in relation to design professionals and the circumstances under which the department or the local building official shall be authorized to accept design professionals affirmation in their plans and specifications as to compliance with various provisions of this code.

(2) All new, alteration, repair, expansion, addition or modification work involving the practice of professional architecture and engineering as defined by KRS Chapters 322 and 323 shall be prepared by registered professional architects or engineers as certified by the state; and all plans, computations and

specifications required for a building permit application for such work must be prepared by or under the direct supervision of the registered architect or engineer and bear his seal and signature in accordance with those statutes.

Section 25. Validity. (1) In the event any part or provision of this code is held to be illegal or void, this shall not have the effect of making void or illegal any of the other parts or provisions thereof, which may or shall be determined to be legal; and it shall be presumed that this code would have been passed without such illegal or invalid parts or provisions.

(2) Any invalid part of this code shall be segregated from the remainder of this code by the court holding such part invalid, and the remainder shall remain effective.

(3) The invalidity of any provision in any section of the KBC as applied to existing buildings and structures shall not be held to affect the validity of such section in its application to buildings and structures hereafter erected.

Section 26. Effective Dates for KBC Application. (1) Any building required by Section 9(1) of this regulation to be submitted to the Department of Housing, Buildings and Construction and which was not submitted and accepted for construction prior to February 15, 1980, must be constructed in compliance with the applicable provisions of the KBC.

(2) Any building required by Section 8 of this regulation to be submitted to a local government for plan review and which was not lawfully approved for construction prior to the following timetables shall be constructed in compliance with the applicable provisions of the KBC:

(a) In all local governments in a county containing a first or second class city or urban county government, no later than February 15, 1980.

(b) In all local governments in a county where the largest city is of the third or fourth class, no later than August 15, 1981.

(c) In all local governments in a county containing no city larger than fifth or sixth class, no later than August 15, 1982.

(3) Any local government may adopt the KBC voluntarily before the mandatory date stated in subsection (2) of this section.

Section 27. Whenever the department has entered into a contractual obligation requiring enforcement of applicable federally approved codes, the department shall approve plans and make inspections; using those federal codes as an alternative to other applicable provisions of the KBC, so long as equivalent safety is maintained. Any facility of an occupancy type subject to review by the federal codes may use this section.

Section 28. Day Care Centers. Family child day care homes, group day care homes, day nurseries and child day care centers which comply with the provisions of the Life Safety Code, N.F.P.A. Pamphlet #101, shall be deemed to have satisfied all the life safety requirements of the Kentucky Building Code.

Section 29. Until December 31, 1987, the department shall accept plans in conformity with the requirements of either the 1984 Edition BOCA Code or the 1987 Edition, together with any Kentucky amendments thereto. After December 31, 1987, all plans shall be designed to conform with the 1987 Edition of the BOCA Code as set forth in this regulation.

CHARLES A. COTTON, Commissioner
THEODORE T. COLLEY, Secretary
APPROVED BY AGENCY: Janaury 18, 1990
FILED WITH LRC: January 30, 1990 at 10 a.m.

PUBLIC HEARING: A public hearing on this regulation shall be held on Tuesday, March 27, 1990, at 10 a.m., local time, in the office of the Department of Housing, Buildings and Construction, U.S. 127 South, Frankfort, Kentucky. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is received. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127 Building, U.S. 127 South, Frankfort, Kentucky 40601. If no written requests to appear at the public hearing are received by March 22, 1990, the hearing may be cancelled.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Judith G. Walden

(1) Type and number of entities affected: Contractors, architects, engineers, users of the Kentucky Building Code.

(a) Direct and indirect costs or savings to those affected: No costs or savings because regulation only establishes acceptability and sets standards.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition): No competition; KBC is statewide code.

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: None to the agency because the regulation merely provides clarificaton of the impact of changes in use and rules applicable for continuing a legally approved use.

(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: Requires agency to update code by reprinting and distributing updated page inserts to purchasers.

(3) Assessment of anticipated effect on state and local revenues: No effect on revenue either state or local.

(4) Assessment of alternative methods; reasons why alternatives were rejected: None. Board of Housing reviews amendments and passes as acceptable, safe addition within limits defined.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No known statute in 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? Yes

CABINET FOR HUMAN RESOURCES
Department for Health Services
(Proposed Amendment)

902 KAR 9:010. Environmental health.

RELATES TO: KRS 211.920 to 211.945
STATUTORY AUTHORITY: KRS 194.050, 211.090, 211.925
NECESSITY AND FUNCTION: KRS 211.920 to 211.945 authorizes the Cabinet for Human Resources to adopt rules, regulations, and standards relating to the public health or health aspects of the operation of state confinement facilities. The intent of this regulation is to establish uniform standards of institutional sanitation to safeguard the health of persons confined in state confinement facilities, by providing for the opportunity to pursue adequate personal hygiene for health maintenance, control of the incidence and spread of disease, and maintenance of sanitary living conditions. [This regulation establishes uniform standards to safeguard the environmental health of persons confined in state confinement facilities.]

Section 1. Definitions. As used in this regulation:
(1) "Cabinet" is as defined in KRS 211.920(1) [means Cabinet for Human Resources and the local health department having jurisdiction and their duly designated representatives];
(2) "Cell" means a room designated [used] to provide sleeping and personal storage facilities for no more than two (2) inmates [confine one (1) inmate];
(3) "Confinement housing unit" means a residential structure intended for occupancy by inmates of a state confinement facility, which may be subdivided into wings, levels or sections containing inmate living areas. It may also include facilities for food preparation, service and dining, medical treatment, physical exercise, education, visitation, storage or other functions necessary for the operation and maintenance of the unit.
(4) [(3)] "Dayroom" means a common area, room or other place of assembly within a confinement housing unit, or a wing, level, or section of that unit, which is provided for inmate leisure time activities [used to confine inmates during the day];
(5) [(4)] "Dormitory" means a room designated [used] to provide sleeping and personal storage facilities for three (3) [confine two (2)] or more inmates;
(6) [(5)] "Inmate" means any person confined or assigned to residence in a state confinement facility;
(7) "Inmate space" means the living area, as measured in gross square feet of floor space, required for each inmate within a confinement housing unit;
(8) "Living area" means the cell or dormitory to which an inmate is assigned for housing, and includes dayrooms, personal hygiene facilities, and other areas within a confinement housing unit which are normally accessible to an inmate on a daily basis. An area is considered normally accessible when an inmate can enter or use it and includes areas accessible for specified hours or by permission only;
(9) "Personal hygiene facility" means a room or rooms which contain sanitary fixtures such as lavatories, water closets, showers or bathtubs, and other necessary appurtenances for maintaining inmate personal hygiene.

Section 2. Sanitary Facilities and Controls. (1) The water supply shall be potable, adequate and from an approved source and shall be developed and approved pursuant to [in accordance with] applicable requirements of the Natural Resources and Environmental Protection Cabinet.
(2) All sewage and liquid waste matter shall be disposed of into a public sewer[age] system, if available. In the event a public sewer[age] system is not available, disposal shall be made into a private sewage disposal system designed, constructed and operated pursuant to [in accordance with] the requirements of the cabinet; [provided, however,] if an adequate [a] public sewer[age] system subsequently becomes available, connections shall be made thereto and the state confinement facility's sewage disposal [sewerage] system shall be discontinued.
(3) A drinking fountain [with a diagonal jet orifice] or a potable water service fixture with individual single service drinking cups shall be accessible to inmates in their living area pursuant to the requirements of the State Plumbing Code [provided for each cell, dormitory and dayroom]. The use of a common drinking vessel is prohibited.
(4) Each confinement housing unit [cell] shall include personal hygiene facilities within the unit which contain sanitary fixtures meeting the requirements of the State Plumbing Code as to design, fixture type and numbers of fixtures. [be provided with a modern prison-type commode. Dayrooms and dormitories shall be provided with one (1) commode for every eight (8) inmates or fraction thereof. Urinals may be substituted for one-half (1/2) the commodes in facilities used to house male inmates. All commodes and urinals shall be kept clean and in good repair. An adequate supply of toilet tissue shall be provided at each commode.]
(5) All personal hygiene facilities shall be designed and constructed pursuant to the requirements of the State Building Code. All walls, floors, ceilings, partitions, sanitary fixtures and appurtenances shall be maintained in a sanitary condition and in good repair. [Each cell shall be provided with a modern prison-type lavatory. Dayrooms and dormitories shall be provided with one (1) lavatory for every eight (8) inmates or fraction thereof. All lavatories shall be kept clean and in good repair. Each lavatory shall be equipped with hot and cold running water, hand-cleansing soap and approved sanitary towels or other approved hand-drying devices.]
(6) An adequate supply of clean washcloths, towels and clothing, and toilet tissue, soap and similar personal hygiene articles shall be issued to each inmate as necessary to maintain hygiene. [Showers shall be provided on a ratio of one (1) shower for each fifteen (15) inmates or fraction thereof. All showers shall be kept clean and in good repair. Under normal operating

conditions, each inmate shall be permitted to take one (1) shower per day. An adequate supply of soap and individual towels shall be available for showers. Each shower shall be equipped with hot and cold running water.]

(7) Hot and cold or tempered water shall be supplied to all lavatories, showers and bathtubs, and all hot or tempered water supply lines to such fixtures shall be protected by temperature and pressure control devices approved for use by the State Plumbing Code to prevent scalding. [All hot water outlets in confinement areas shall have controls to prevent the distribution of water at a temperature which would scald an inmate.]

(8) All plumbing shall comply with the State Plumbing Code.

(9) All garbage and rubbish shall, prior to disposal, be kept in leak-proof, nonabsorbent containers and the [such] containers shall be kept covered with tight-fitting lids when stored. Containers [used in confinement areas] shall be flame-retardant. Adequate cleaning facilities shall be provided and containers shall be kept clean. All garbage and rubbish shall be removed from confinement housing units [areas] on a daily basis and shall be disposed of at least weekly or more often if necessary, and in [such] a manner approved by the Natural Resources and Environmental Protection Cabinet [as to prevent a nuisance].

Section 3. Facilities and Equipment. (1) Each confinement housing unit [cell] shall provide a minimum inmate space of sixty (60) square feet for each inmate housed within that unit. [:]

[(a) Have at least forty-eight (48) square feet of floor space;]

[(b) Have at least eight (8) foot ceilings;]

[(c) Contain a bed; and]

[(d) Provide facilities for storage of the inmate's personal belongings, including clothing and towels.]

(2) Each cell and dormitory shall:

(a) Have at least eight (8) foot ceilings;

[(b) Provide at least fifty (50) square feet of floor space per inmate;]

(b) [(c)] Contain a bed for each inmate; and

(c) [(d)] Provide facilities for storage of inmates' personal belongings, including clothing and towels.

(3) All floors, walls, ceilings, and equipment of confinement housing units shall be constructed pursuant to the State Building Code [of easily cleanable material, kept in good repair and clean]. All parts of the confinement housing unit [facility] and its premises shall be kept in good repair, clean, neat and free of litter and rubbish.

[(4) Separate cells and dormitories shall be provided for: adult males; adult females; male juveniles; and female juveniles. Physical, visual and audible separation shall be provided. Separate confinement cells shall be provided for mentally disturbed inmates.]

[(5) A medical examining room physically and visually separated from cells and dormitories shall be provided.]

Section 4. Lighting. Each confinement housing unit [cell, dayroom, and dormitory room] shall be provided with natural or artificial light sufficient to provide twenty (20) [fifty (50)] foot candles of light for reading purposes. [. Lighting shall be available for all areas of the confinement facility equal to twenty (20) foot candles] to permit observation, and for proper cleaning and maintenance. All light fixtures shall be kept in good repair and clean.

Section 5. Heating, [and] Cooling and Ventilation. (1) All confinement housing units shall be provided with heating, cooling and ventilation equipment as required by the State Building Code. The equipment shall be capable of meeting the requirements of the State Fire Marshal for safety, maintenance and operation. [Adequate automatic standard heating equipment shall be provided. If radiators are provided, they shall be located in the inspection corridor and adequately shielded to prevent accidental injury. In no case shall the heating system constitute a fire or safety hazard. Cells, dormitories, dayrooms and other areas of confinement facilities used to house inmates shall be properly heated so the inside temperature does not fall below sixty-five (65) degrees Fahrenheit, and an adequate cooling and ventilation system shall be provided and maintained to prevent the inside temperature from rising above eighty-five (85) degrees Fahrenheit.]

(2) Ventilation, through natural or mechanical means shall be sufficient to provide fresh air and remove disagreeable odors.

[Section 6. Ventilation. Cells, dormitories, and dayrooms shall be provided with natural or mechanical ventilation which admits fresh air and removes disagreeable odors.]

Section 6. [7.] Vermin Control. (1) [The confinement facility premises shall be free of vermin at all times.] Effective measures to control [eliminate] the presence of rodents, flies, roaches, and other vermin on the premises shall be utilized. The premises shall be kept in such condition as to prevent the harborage or breeding of vermin.

(2) Openings to the outside shall be [effectively] protected against the entrance of rodents, insects and other vermin by tight-fitting, self-closing doors, closed windows, screening, controlled air currents, or other acceptable means. [Screen doors shall be self-closing, and screens for windows, doors, skylights, transoms and other openings to the outside shall be tight-fitting and free of breaks.] Screening material shall not be less than sixteen (16) mesh to one (1) inch.

Section 7. [8.] Bedding. (1) As a minimum, each inmate [detained] in a state confinement facility shall be provided with:

(a) [(1)] An approved flame-retardant and water-repellent mattress and pillow;

(b) [(2)] A pillowcase;

(c) [(3)] A sheet or cloth mattress cover; and

(d) [(4)] A blanket.

(2) [Provided, however, that] If, in the sound discretion of the appropriate person in charge of the state confinement facility, any items listed in this section would constitute a danger or hazard to the inmate confined due to a behavior or mental condition, such items may be withheld.

(3) Mattresses, pillows, blankets, sheets, pillowcases, and mattress covers shall be kept in good repair and clean.

(4) Sheets, pillow cases and mattress covers,

if used without sheets, shall be changed and laundered at least weekly and before being issued to another inmate.

[Section 9. Supplies for Inmates. An inmate shall be provided a clean cloth towel at least every fourth day. Clothing worn by inmates shall be kept clean.]

Section 8. [10.] Exercise[, Visitation and Multipurpose Areas]. Adequate space shall be provided within the state confinement facility to allow all inmates an opportunity to obtain physical [adequate] exercise. [Adequate individual visitation space shall be provided. Separate areas for educational and other multipurpose uses shall be provided in confinement facilities housing fifteen (15) or more inmates.]

Section 9. [11.] Food Service. All state confinement facilities shall comply with the food service provisions of KRS 219.011 to 219.081 and 219.991 and the State Food Service Code. If food for inmates is not prepared by the state confinement facility, food shall be obtained from a commercial food service establishment holding a valid permit from the cabinet.

Section 10. [12.] Food Manufacturing. All food manufacturing and processing conducted at state confinement facilities shall be operated pursuant to [in accordance with] applicable public health laws and [the cabinet's] regulations of the cabinet [relating thereto].

Section 11. [13.] Existing Facilities and Equipment. Notwithstanding the other provisions of this regulation, facilities and equipment being used by existing state confinement facilities, which do not fully meet the design and construction requirements of this regulation, may be continued in use, if in good repair, capable of being maintained in a sanitary condition, and creates no health hazard.

Section 12. [14.] Plan Review of [Future] Construction. Plans for alteration or new construction of state confinement facilities shall be submitted to the appropriate agencies [cabinet] for approval. [All such plans and specifications shall show building layout, type of construction material, size and location of fixed equipment and facilities, and a plumbing riser diagram.]

Section 13. [15.] Inspection of State Confinement Facilities. (1) At least once each six (6) months, the cabinet shall inspect each state confinement facility and shall make as many additional inspections and reinspections as are necessary for carrying out the provisions of this regulation.

(2) When[ever] an agent of the cabinet makes an inspection of a state confinement facility, he shall record his findings on an official cabinet inspection report form and provide the supervising and maintaining authorities [appropriate official of the confinement facility] with a copy of the report. If a deficiency is found, the inspection report shall:

(a) Set forth the specific deficiencies found;

(b) Identify any variances previously granted;

(c) Establish a specific and reasonable period of time for the correction of the deficiency found; and

(d) State that failure to comply with any notice issued pursuant to the provisions of this regulation may result in the initiation of legal action.

Section 14. Enforcement Hearings. For purposes of enforcement, whenever the supervising and maintaining authorities have failed to comply with any written notice or order issued under the provisions of this regulation, they shall be notified in writing that legal action may be instituted against the state confinement facility, and the supervising and maintaining authorities, at the end of ten (10) working days following service of the notice, unless a written request for a hearing is filed with the cabinet, by the supervising and maintaining authorities, within the ten (10) working day period.

(1) The hearings provided for in this section shall be conducted by the cabinet at a time and place designated by it.

(2) At the conclusion of the hearing, the hearing officer shall make written findings of fact, conclusion(s) of law, and recommendations, based upon the evidence presented and any matters considered by the hearing officer, pursuant to the Confinement Facilities Health Act and these regulations. The hearing officer may recommend that a variance be granted or denied, and that legal action be pursued.

(3) The secretary of the cabinet or his designee may accept, reject or modify the findings, conclusion(s) and recommendation(s) of the hearing officer. A variance may only be granted upon written determination that the granting thereof will not endanger the health of those confined in the facility or the public health. Any variance so granted may be with or without stipulations or restrictions.

Section 15. Variance Hearings. (1) Any supervising and maintaining authority of a state confinement facility may request in writing that the cabinet consider granting a variance to any provision of this regulation.

(2) Written requests for a variance shall include all pertinent information about the facility, the specific provision(s) of the regulation affected, the specific reason(s) for the request and evidence in support of the request.

(3) Upon receipt of a request for a variance, the cabinet shall review the request and establish a date, time and location for the convening of an administrative hearing. The requesting authority shall be notified of the date, time and location of the hearing within ten (10) working days of the receipt of the request, and at least five (5) working days prior to the date of the hearing.

(4) Supervising and maintaining authorities requesting variances shall have the right to appear at the hearing with counsel and to present evidence in support of the variance request, including testimony of expert witnesses.

(5) At the conclusion of the hearing, the hearing officer shall make written findings of fact, conclusion(s) of law, and recommendations based upon the evidence presented and any matters considered by the hearing officer, pursuant to the Confinement Facilities Health Act and these regulations. The hearing officer

may recommend that a variance be granted or denied, and that legal action be pursued.

(6) The secretary of the cabinet or his designee may accept, reject or modify the findings, conclusion(s), and recommendation(s) of the hearing officer. A variance may only be granted upon written determination that the granting thereof will not endanger the health of those confined in the facility or the public health. Any variance so granted may be with or without stipulations or restrictions.

[Section 16. (1) A waiver of the facility standards may be granted by the cabinet for any existing state confinement facility if the cabinet determines:]

[(a) That strict compliance will cause unreasonable difficulties;]

[(b) That such waiver will not seriously affect the security and supervision of inmates and programs, or the safe, healthful or efficient operation of the facility; and]

[(c) That compliance with the standard is to be achieved in a manner other than that which is specified, but in a manner which is sufficient to meet the intent of the environmental standards for state confinement facilities.]

[(2) To request a waiver of any of the requirements of this regulation, the Corrections Cabinet shall submit a written request to the Cabinet for Human Resources. The written request shall include the following information:]

[(a) Citation of the specific standard involved;]

[(b) Specification of the efforts of the Corrections Cabinet to bring the facility into strict compliance;]

[(c) Identification and description of the specific difficulties involved in meeting strict compliance;]

[(d) Description of the alternative proposed; and]

[(e) Provision of documentation sufficient, in the opinion of the Cabinet for Human Resources, to demonstrate that the waiver, if granted, will not jeopardize the security and supervision of inmates and programs, or the safe, healthful or efficient operation of the facility.]

[(3) A waiver, if granted, shall apply only to the specific situation or circumstance described and for such time as specified by the Cabinet for Human Resources, and shall include any requirements imposed as conditions for approval of the waiver. No waiver shall be granted for longer than twelve (12) months. Any waiver granted shall be subject to review upon expiration for the purpose of reapproval.]

C. HERNANDEZ, M.D., Commissioner
HARRY J. COWHERD, M.D., Secretary

APPROVED BY AGENCY: February 14, 1990

FILED WITH LRC: February 14, 1990 at 3 p.m.

PUBLIC HEARING: A public hearing on this regulation has been scheduled for March 21, 1990, at 9 a.m. in the Department for Employment Services Conference Room, Second Floor, Cabinet for Human Resources Building, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by March 16, 1990, of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: James T. Corum

(1) Type and number of entities affected: 57 state confinement facilities including 12 adult facilities with an inmate population of 8,055 and 45 juvenile facilities with an inmate population of 696. These facilities are currently under the existing regulation and amendment will not change that status.

(a) Direct and indirect costs or savings to those affected: There will be no change in costs or savings to those affected as a result of the amendments. Changes to text or content of the regulation are aimed at: clarification and simplification of requirements to promote uniformity of interpretation, application and enforcement; conformance with KRS Chapter 13A; and, elimination of conflicts with other agencies' regulations (state building and plumbing codes).

1. First year: No change from current status.

2. Continuing costs or savings: No change.

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

(b) Reporting and paperwork requirements: No change from current status.

(2) Effects on the promulgating administrative body: No change from current status.

(a) Direct and indirect costs or savings: No change from current status.

1. First year: No change.

2. Continuing costs or savings: No change.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No change.

(3) Assessment of anticipated effect on state and local revenues: No effect.

(4) Assessment of alternative methods; reasons why alternatives were rejected: "No change" alternative not feasible due to need to conform to KRS Chapter 13A and eliminate conflicts with other regulations. Other alternatives involve more complex requirements which affect uniformity and are more prone to misinterpretation and misapplication. Other alternatives also would increase costs to affected entities and costs of enforcement without generating any demonstrable benefit.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None as amended - text changes included elimination of conflicts with state building and plumbing codes.

(a) Necessity of proposed regulation if in conflict: No conflict after amendment.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Yes, amendment was intended to eliminate conflicts as well as address other issues.

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. Uniformity of application, interpretation and enforcement is necessary in all state confinement facilities as sanitary living conditions are equally important to all facilities. Amended regulations establish minimum standards of sanitation for inmate health and hygiene maintenance which if tiered would create a discriminatory standard.

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___ Relates to environmental health inspection program carried out by local health departments on state confinement facilities under authorities in KRS 212.240 and KRS 211.925.

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. Affects only local health departments. Amended regulation does not alter inspection and enforcement activities of local health departments in any significant manner from what is currently being practiced under the existing regulation.

3. State the aspect or service of local government to which this administrative regulation relates. Relates to the existing inspection and enforcement program on state confinement facilities as carried out by local health departments.

4. How does this administrative regulation affect the local government or any service it provides? As this is an amendment to an existing regulation which has been the basis of an established inspection and enforcement program for several years, the only effect will be a continuation of that program as carried out by local health departments as a portion of their total environmental programs' services.

PROPOSED REGULATIONS RECEIVED THROUGH FEBRUARY 15, 1990

FINANCE AND ADMINISTRATION CABINET
Kentucky State Board of Medical Licensure

201 KAR 9:185. Athletic trainer fee schedule.

RELATES TO: KRS 311.900 to 311.928
STATUTORY AUTHORITY: KRS Chapter 13A
NECESSITY AND FUNCTION: KRS 311.908(1) empowers the State Board of Medical Licensure to adopt rules and regulations as necessary to fulfill their statutory duty and obligations to certify qualified athletic trainers to practice within the Commonwealth of Kentucky. The purpose of this regulation is to establish a schedule of fees for services rendered by the board in performing its administrative functions.

Section 1. Fee Schedule. (1) Fee for initial athletic trainer certification - $25.
(2) Fee for recertification - $25.
(3) Fee for temporary certificate - $10.
(4) Fee for certification exam - $75.
(5) Endorsement of certification to another jurisdiction - $10.
(6) Duplicate certificate - $10.

ROYCE E. DAWSON, M.D., President
APPROVED BY AGENCY: February 14, 1990
FILED WITH LRC: February 15, 1990 at 9 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation will be held on Wednesday, March 21, 1990 at 10 a.m. at the office of the Kentucky Board of Medical Licensure, 400 Sherburn Lane, Suite 222, Louisville, Kentucky 40207. Those interested in attending this hearing shall notify C. William Schmidt, Executive Director, Kentucky Board of Medical Licensure, in writing, by March 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 notification of intent to attend the hearing or written comments to: C. William Schmidt, Executive Director, Kentucky Board of Medical Licensure, 400 Sherburn Lane, Suite 222, Louisville, Kentucky 40207. (502)896-1516.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: C. William Schmidt
(1) Type and number of entities affected: This regulation will affect all athletic trainers certified in the Commonwealth of Kentucky and those applying for certification in Kentucky.
(2) Direct and indirect costs or savings to those affected: There will be direct costs to these applicants in that the examination fee is increased $50. The initial certification fee remains the same.
(a) First year: $50 cost increase for taking examination will be incurred by all applicants. The board will not make money, only seeking to recoup its costs in administering the examination.
2. Continuing costs or savings: These increased costs will continue to be incurred by new applicants and those currently certified when they recertify, seek endorsement to another state or seek duplicate certificate.
3. Additional factors increasing or decreasing costs (note any effects upon competition): While these fees will increase costs to applicants and current certificate holders, the board is attempting to recoup its administrative costs and will not make profit.
(b) Reporting and paperwork requirements: No additional reporting and paperwork requirements anticipated.
(2) Effects on the promulgating administrative body: No effect on the board other than allowing them to recoup costs associated with administering the athletic trainer program. All things listed in the fee schedule are currently being offered by the board at no additional cost to the athletic trainer.
(a) Direct and indirect costs or savings: Direct cost savings include recoupment of administrative costs.
1. First year: Cannot be adequately calculated, but as mentioned earlier, board is merely seeking reimbursement for costs expended.
2. Continuing costs or savings: Cannot be adequately calculated, but cost savings to the board will be ongoing as their expenses are reimbursed.
3. Additional factors increasing or decreasing costs: Board is not aware of any additional factors which would increase or decrease costs.
(b) Reporting and paperwork requirements: No additional paperwork requirements are anticipated by the board.
(3) Assessment of anticipated effect on state and local revenues: Anticipated effect on local and state revenues is that the board's budget will no longer have as much costs associated with administering the athletic trainers program.
(4) Assessment of alternative methods; reasons why alternatives were rejected: Alternative considered was having no fee schedule and continue having board underwrite the athletic trainers. The board and its Athletic Trainer Advisory Council both felt the athletic trainers should pay for these basic services provided by the board.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Board is not award of any statute, regulation or government policy which is in conflict, overlaps or is duplicated by this new regulation.
(a) Necessity of proposed regulation if in conflict: N/A - see (5) above.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A - see (5) above.
(6) Any additional information or comments: The board feels that this fee schedule fairly assesses costs to the athletic trainer for services rendered by the board and its staff.
TIERING: Was tiering applied? Yes

GENERAL GOVERNMENT CABINET
Kentucky State Board of Podiatry

201 KAR 25:022. Reinstatement of surrendered license with waiver of renewal requirements for exclusively altruistic and gratuitous practice.

RELATES TO: KRS 311.450
STATUTORY AUTHORITY: KRS 311.410
NECESSITY AND FUNCTION: Sets forth the requirements for reinstatement of a surrendered license and waiver of renewal requirements for podiatrists engaged exclusively in altruistic and gratuitous practice.

Section 1. The board may reinstate a license that was surrendered while it was in good standing provided that the license had been maintained in good standing annually for ten (10) or more consecutive years prior to its surrender and further provided that less than two (2) years have elapsed since surrender of the license at the time of application for reinstatement.

Section 2. The board may waive the annual renewal fee and/or continuing education requirements as provided for in 201 KAR 25:021 for licenses reinstated in compliance with this regulation.

Section 3. Any license reinstated pursuant to this regulation shall be used only for the altruistic and gratuitous practice of podiatry. No podiatrist reinstated pursuant to this regulation shall charge a fee or assess any other costs for or in connection with podiatric services rendered by such podiatrist.

JOSEPH P. LEONE, D.P.M., President
APPROVED BY AGENCY: November 30, 1989
FILED WITH LRC: January 30, 1990 at 10 a.m.
PUBLIC HEARING: A public hearing on this proposed regulation will be held on March 21, 1990 at the hour of 10 a.m. at Kentucky State Board of Podiatry, 110 Hubbard's Lane, Louisville, Kentucky 40207. Any person interested in commenting on these regulations at that hearing should contact Greg Holmes, Assistant Attorney General, State Capitol, Frankfort, Kentucky 40601 in writing by March 16, 1990.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Greg Holmes
(1) Type and number of entities affected: 67 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.

DEPARTMENT OF AGRICULTURE

302 KAR 40:010. Standard organic agricultural product requirements.

RELATES TO: KRS 260.010
STATUTORY AUTHORITY: KRS 260.036
NECESSITY AND FUNCTION: KRS 260.036 authorizes the Department of Agriculture to promote the sale of agricultural products in the state by operating, maintaining and administering a standard grading program for evaluating agricultural products. This regulation sets forth the definitions and procedures for certification of organically produced foods pursuant to the provisions of the Act.

Section 1. Definitions. Whenever used in this regulation the following terms shall have the meaning as set forth herein:
(1) The term "department" means the Kentucky Department of Agriculture.
(2) The term "organic farming" means a system of ecological soil management that relies on building humus levels through crop rotations, recycling organic wastes and applying balanced mineral amendments and that uses, when necessary, mechanical, botanical or biological controls.
(3) The term "organic food" means food that is produced under a system of organic farming and that is processed, packaged, transported and stored so as to retain maximum nutritional value without the use of artificial preservatives, coloring or other additives, ionizing radiation or synthetic pesticides.
(4) The term "producer" means a person responsible for growing or raising organic food.
(5) The term "certification" means the verification of authentic organic practices in the production or processing of organic food and is an annual process by which the producer of food receives verification.
(6) The term "synthetic" means a substance that is manufactured by chemical reaction or chemical synthesis to create a product that does not ordinarily occur in nature and does not include products produced solely by biological degradation of a natural material, biological propagation of a natural material, physical manipulation of a natural material by process such as crushing, mixing, washing, driving, cooking and genetically engineering and physical manipulation of a natural material through extraction.
(7) The term "pesticide" means any substance or mixture of substances which is intended for preventing, destroying, repelling or mitigating

a plant or nonplant pest, or any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant.

(8) The term "fertilizer" means any substance containing nitrogen, phosphorus or potassium or any recognized plant nutrient element or compound that is used for its plant nutrient content or for compounding mixed fertilizers.

(9) The term "plant amendment" means an inoculant or foliar substance applied to seeds or plants which is intended to facilitate nitrogen fixation, germination, growth, yield, product quality, reproduction, flavor or other desirable characteristics of plans.

(10) The term "soil amendment" means an aggregate, additive or microbiological substance which is a naturally occurring substance, a nonsynthetically modified natural substance or a nontoxic manufacturing by-product.

(11) The term "micronutrients" means trace or minor elements in soil that are essential for normal plant growth.

(12) The term "biological control" means a natural parasite, predator or pathogen that maintains a pest population at a lower average density than would otherwise occur.

(13) The term "allelochemic" means a naturally occurring substance significant to organisms of a species different from that of its sources, for reasons other than food as such.

(14) The term "pheromone" means a substance secreted by an organism to be outside and causes a specific reaction in a receiving organism of the same species.

(15) The term "cover crop" means a crop planted primarily to cover the soil surface, prevent erosion and recover nutrients from the subsoil.

(16) The term "green manure crop" means a crop planted primarily to be plowed under to increase soil tilth and fertility.

(17) The term "raw manure" means animal excrement, both solid and liquid, that has not been aged, aerated, composted, fermented, aerobically digested or otherwise humified or processed to improve its value as a biological activator.

(18) The term "toxin" means a chemical, drug, radiological agent or biological agent that is present in an amount sufficient to cause significant adverse effects in humans, crops, livestock or the environment.

(19) The term "semiochemical" means a pheromone, allelochemic or other naturally occurring substance involved in the chemical interaction between organisms.

Section 2. Standards for Certification of Organic Foods. The department shall establish a program to certify organically produced food that meets the following requirements:

(1) Is produced, harvested, cleaned, stored, transported, distributed, processed and packaged without the use of synthetic fertilizer materials; except as permitted in Section 3 of this regulation.

(2) Contains no added artificial coloring, artificial flavoring or artificial preservative.

(3) For perennial crops, is grown in soil or growth medium which is free of any applied synthetic pesticides, synthetic soil and plant amendments, and synthetic fertilizer materials, for three (3) years before and throughout the entire growing and harvesting of the crop.

(4) For annual crops and two (2) year crops, was grown in soil free of any applied synthetic pesticides or fertilizer material for three (3) years before planting or transplanting and throughout the entire growing and harvesting of the crop.

(5) Contains no more than ten (10) percent of the level of any pesticide, fungicide or herbicide which the United States Food and Drug Administration regards as a safe level.

(6) Is grown in soil or growth medium that is not less than fifty (50) feet in distance from other cultivated agricultural land.

Section 3. Establishing Permitted, Prohibited and Regulated Production Practices for Food Intended to be Certified as Organically Grown.

(1) Soil management practices are under the following guidelines:

(a) Tillage systems shall incorporate crop residues and other organic wastes into topsoil.

(b) Mowing, grazing or permacultural systems are permitted to minimize or eliminate tillage.

(c) Crop rotation shall be used for all crops that are not:

1. Perennials;
2. Included in permaculture systems;
3. Grown in containers.

(d) Crop rotation may include:

1. Alteration of soil and row crops;
2. Nitrogen-fixing crops;
3. Green manure crops;
4. Cover and nurse crops;
5. Deep-rooting crops;
6. Alteration of heavy and light feeders;
7. Plants with allelopathic or mineral-accumulating properties.

(e) Raw manure may be applied to:

1. Green manure crops;
2. Perennial crops.

(f) Manure composted by aerobic digestion or controlled fermentation may be used.

(g) Liquid manure slurry may be used if the slurry is aerated from a source that adds carbon to the slurry.

(h) Raw manure shall not be applied in contact with food for consumption.

(2) Soil amendments, fertilizers and water are under the following guidelines:

(a) Sources of nitrogen may include the following:

1. Green manures;
2. Nitrogen-fixing crops;
3. Cover crops;
4. Composted materials;
5. Nitrogen-fixing microorganisms.

(b) One (1) of the following nitrogen sources may be used one (1) time only on a field planted with a green manure crop:

1. Sodium nitrate;
2. Potassium nitrate;
3. Urea;
4. Ammonium sulfate.

(c) The following nitrogen sources shall not be used:

1. Anhydrous ammonia;
2. Ammonium nitrate;
3. Sewage sludge;
4. Contaminated organic materials.

(d) Sources of phosphorus may include the following:

1. Colloidal phosphate;
2. Hard-rock phosphate;
3. Soft-rock phosphate;
4. Bone meal.

(e) A one (1) time application of phosphorus

may be used on fields that are in the first year of a transition from conventional production practices to organic practices.

(f) The following sources of phosphorus shall not be used;

1. Superphosphate;
2. Triple superphosphate;
3. Acidifying materials with a high salt index.

(g) Sources of potassium may include the following:

1. Wood ashes;
2. Rock dusts;
3. Sulfate of potash magnesia;
4. Natural potassium sulfate;
5. Kanite;
6. Recycled potassium-rich organic matter.

(h) A one (1) time application of potassium may be used on fields that are in the first year of a transition from conventional production practices to organic practices.

(i) The following sources of potassium shall not be used:

1. Muriate of potash;
2. Sources with excessive solubility, high salt index and chloride content.

(j) Sources of calcium may include the following:

1. Agricultural limestone;
2. Agricultural gypsum;
3. Kiln dust;
4. Calcified seaweed;
5. Corn calcium;
6. Calcium oxide.

(k) The following sources of calcium shall not be used:

1. Quicklime;
2. Slaked lime;
3. Hydrated lime.

(l) The following sources of magnesium may be used:

1. Dolomitic limestone;
2. Kieserite;
3. Sulfate of potash magnesia.

(m) Elemental sulfur from mined sources may be used as application to soil.

(n) The following sources of micronutrients may be used:

1. Liquid or powdered seaweed extract that is not chemically fortified;
2. Kelp meal;
3. Rock powders.

(o) The following sources of micronutrients shall not be used:

1. Chemically fortified liquid;
2. Powdered seaweed extract.

(p) The following sources of growth regulators, growth promoters, activators and inoculants may be used:

1. Dry or liquid seaweed extract;
2. Natural enzymes;
3. Herbal preparations;
4. Biodynamic preparations;
5. Rhizobial inoculants;
6. Free-living nitrogen-fixing bacteria;
7. Blue-green algae;
8. Cellulolytic bacteria;
9. Natural rooting hormones;
10. Humates;
11. Adjuvants and wetting agents for foliar applications.

(q) The following sources of growth regulators and growth promoters shall not be used:

1. Synthetic growth promoters;
2. Synthetic growth regulators.

(r) Where irrigation is necessary, an initial application for certification shall include analyses of water quality and soil salinization and shall identify planned sources for irrigation.

(s) Irrigation water contaminated with toxic substances shall not be used, except for the following exceptions:

1. No other water is available;
2. No toxic residues from contaminated water are present in certified crops, as determined by at least one (1) tissue test per field per year until no residue from contaminated water is found in the crop.

(3) Seeds and seedlings are under the following guidelines:

(a) Producers shall use plant materials produced without synthetic pesticides.

(b) Producers may use the following:

1. Untreated seeds and seedlings;
2. Nontoxic seed treatments such as hot water and food grade hydrogen peroxide;
3. Legume inoculants;
4. Fungicide-free pelletization.

(c) With written permission from the department or other certifying agency, producers may use the following:

1. Plant materials produced without the use of synthetic fungicides or pesticides, but fertilized nonorganically;
2. Commercial soil mixes, vermiculite or other media containing small amounts of soluble fertilizers for farm-produced seedlings;
3. Plant materials to which a synthetic pesticide has been applied, provided these plant materials produce no crop that is harvested or sold within thirty-six (36) months of transplanting.

(d) Producers shall not use:

1. Synthetic fungicides, pesticides or soil-fumigants or any seedlings or plant materials produced for organic production;
2. Sterilization of greenhouse soils at temperatures higher than 180°F.

(4) Weed control is under the following guidelines:

(a) The following weed control practices may be used:

1. Mechanical or hand cultivation;
2. Crop rotations and use of smother crops;
3. Mulching with organic materials;
4. Mowing;
5. Grazing;
6. Use of electrical or flame weeding equipment;
7. Biodynamic preparations.

(b) If approved in writing by the department or other certifying agency, a producer may use:

1. Biodegradable plastic mulches;
2. Mulches made of recycled newspapers.

(c) The following weed control chemicals shall not be used:

1. Synthetically-compounded or petroleum-distillate herbicides;
2. Synthetic growth regulators.

(5) Pest control is under the following guidelines:

(d) The following pest control practices may be used:

1. Preventive management, such as planting resistant varieties, timing plantings to avoid cycles of pest emergence, intercropping, crop rotations, and avoidance of excessive fertilizations;
2. Mechanical or electrical controls, including traps, repellent crops and apparatus,

vacuuming, water jets, physical barriers, and sound;
3. Biological controls, such as release of natural predators and parasites and manipulation of the habitat, supplemental food, and/or hosts of natural predators and parasites;
4. Sprays and dusts of low ecological profile, including insecticidal soaps, rock powders and diatomaceous earth, herbal preparations, dormant oil sprays in orchards, and solutions of pureed arthropods or plants such as hot peppers and garlic;
5. Microbial and viral diseases such as Bacillus thurigiensis, provided no petroleum-based synergists or carriers are used;
6. Pheromones used in traps and as mating disruptives;
7. Other semiochemicals, including pheromones and allelochemics, in an ecologically sound manner for desired direct or indirect manipulations of pests;
8. Electrical devices;
9. Shooting;
10. Food grade hydrogen peroxide.
(b) if approved in writing by the department or other certifying agency, a producer may use:
1. Botanical insecticides;
2. Traps containing prohibited pesticides, providing that the pesticides do not contact soil or water.
(c) The following pest control practices shall not be used:
1. Synthetically-compounded pesticides;
2. Arsenic;
3. Lead salts.
(6) Disease control is under the following guidelines:
(a) The following may be used as disease control practices:
1. Planting resistant varieties;
2. Crop rotations;
3. Intercropping;
4. Use of herbal or plant-derived controls;
5. Use of mineral preparations not prohibited elsewhere in this section.
6. Use of food grade hydrogen peroxide.
(b) If approved in writing by the department or other certifying agency, a producer may use:
1. Copper-based fungicides;
2. Sulfur-based fungicides;
3. Chlorine bleach in dilute solutions as a disinfectant;
4. Micronutrients.
(c) The following shall not be used as disease control practices:
1. Synthetic fungicides;
2. Sterilizing agents;
3. Fumigants;
4. Bacterial agents.

Section 4. Establishing Standards for Processing Organic Foods. (1) The following may be used in processing food certified as organic:
(a) Minimal levels of salt;
(b) Minimal levels of natural sweeteners;
(c) Natural preservatives;
(d) Yeasts;
(e) Microbial cultures;
(f) Fermentation systems;
(g) Organically grown fruit, plant extracts, herbs or spices;
(h) Sea salt;
(i) Brine preparations;
(j) Freezing, drying, vacuum packing, heat processing and wood smoking.

(2) The following shall not be used for processing food certified as organic:
(a) Synthetic preservatives, coloring, flavoring, texturizers, emulsifiers or additives of any kind.
(b) Added sulfites, nitrates or nitrites.

Section 5. Standards for the Harvesting, Storing, and Packaging of Organic Foods. (1) The following practices may be used in the harvesting and handling of organic food:
(a) Dry and cure field crops to appropriate moisture levels by natural field drying, aeration, or other mechanical drying apparatus;
(b) Chill perishable crops by means of uncontaminated water baths, cold rooms, or icing, and maintain constant low temperatures at every stage of transportation and distribution;
(c) Use controlled-atmosphere (carbon dioxide or nitrogen) storage;
(d) Disinfect crops of spoilage organisms or fruit flies by hot-water dipping or vapor-heat treatments;
(e) Repel storage pests with nontoxic materials such as rock powders, diatomaceous earth, herbal preparations, or natural biological controls;
(f) Monitor tissue nitrate levels in leafy crops grown under low light conditions; and
(g) Apply food grade hydrogen peroxide.
(2) The following shall not be used in postharvest handling:
(a) Synthetic fumigants;
(b) Sprouting inhibitors, ripeners or growth regulators;
(c) Preservatives;
(d) Coloring agents;
(e) Ionizing radiation;
(f) Waxes;
(g) Oils.
(3) All packaging material shall be free of fungicides, preservatives and other chemical additives.
(4) Storage areas for organic food shall be ventilated and sealed or otherwise protected from encroachment by birds, rodents or other pests.

Section 6. Recordkeeping and Issuing Records and Labels Pertaining to Certified Organic Foods. (1) Producers of food certified by the department as organic shall submit to the department information required on the following documents devised and distributed by the department:
(a) A producer application;
(b) A producer affidavit;
(c) A field inspection report.
(2) Records of field-by-field fertilization, cropping and pest-management histories shall be kept for each farm, farm unit, field or other production unit relating to an application for certification. Upon request, these records shall be provided to the department.
(3) A yearly soil-test analysis shall be performed and the results submitted to the department for each farm, farm unit, field or other production unit relating to an application for certification. The department may require additional soil tests.
(4) The department may also require producers to submit the results of water, residue and plant-tissue tests.
(5) The department shall maintain all certification records for a period of three (3)

years and certification records shall be subject to the Kentucky Open Records Law.

(6) Any certification granted under this regulation shall be for a period of one (1) year.

(7) The department shall conduct at least one (1) inspection per year of every farm, farm unit, field or other production entity relating to the certification of organic food under the following guidelines:

(a) Within sixty (60) days of receipt of an application for certification, the Director of the Division of Market Services shall schedule an inspection of the applicant's operation.

(b) The department inspector shall complete a field inspection report, which includes a soil test analysis report submitted by the applicant, for each farm, farm unit, field or other production unit relating to an application for certification. The applicant must be present during the inspection.

(8) Upon receipt of a field inspection report, the department shall within thirty (30) days determine whether certification is granted and shall notify the applicant in writing, setting forth the reasons for approval or denial.

(9) The department may conduct additional inspections of farms, farm units, fields, or other production entities relating to the certification of organic food, including unannounced inspections in cases of suspected violations of standards.

Section 7. Requirements for Issuing Labels Certifying Organic Foods. (1) The department shall devise and distribute a label reading "Kentucky Department of Agriculture Certified Organic" that shall be applied or used to refer to food that meets the standards and requirements of this regulation.

(2) A producer of food certified under this regulation may use the "Kentucky Department of Agriculture Certified Organic" label on containers, tags, signs, stickers, labels, decals or other packaging, promotional or informational materials pertaining to the certified food.

Section 8. Methods of Enforcement and Penalties for Violations of these Regulations. (1) Any person with cause to believe that any provision of this regulation has been violated may file a written or oral complaint with the department setting forth the facts of the alleged violation.

(2) The department shall investigate each written or oral complaint related to certified organic food and provide the complainant with the results of the investigation and any remedial actions taken.

(3) The department shall maintain for four (4) years records of all complaints, investigations, and remedial actions. These records shall become part of the reviewing record of any proceeding involving a certified person or applicant for certification.

(4) The department may inspect at reasonable times any area where food certified as organic is processed, manufactured, stored or sold.

(5) The department may revoke certification of any product sold, labeled or advertised in violation of this regulation.

(6) The department shall refuse certification to persons found to have sold, labeled or advertised products in violation of this regulation.

Section 9. Fees. A producer of food certified under the provisions of this regulation shall pay a fee of ten (10) dollars each calendar certification is requested. The department shall require payment of the ten (10) dollar fee at the time application for certification is made.

WARD "BUTCH" BURNETTE, Commissioner

APPROVED BY AGENCY: February 14, 1990

FILED WITH LRC: February 15, 1990 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on March 23, 1990 at 1 p.m. at the Capital Plaza Tower, 7th Floor Conference Room, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by March 19, 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: J. Michael Noyes, General Counsel, Department of Agriculture, 7th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roger Nesbitt

(1) Type and number of entities affected: Producers and processors of organic food are affected, providing that they apply for certification under the proposed standards. There are no statistics available on the number of producers and processors. The department is aware of 20 producers and two processors.

(a) Direct and indirect costs or savings to those affected: Producers must pay for an annual soil test by an independent organization and may be required to pay for residue, plant tissue and water test results, if such tests are requested by the department. The cost of a soil test would range from $25 to $50 for each soil sample submitted. A sample is required for each field in organic production. The cost of a plant tissue or residue test ranges from $100 to $200, depending on the laboratory used. The cost of a water test ranges from $20 to $50, depending on the laboratory used.

1. First year: Producers would be required to submit a soil test result at a minimum cost of $25, and could be required to incur an additional cost for residue, plant tissue or water tests. The total cost depends on a wide number of production factors such as type of crops, number of fields in production and whether irrigation is used.

2. Continuing costs or savings: The cost for a soil test is the only required annual cost to producers. Costs for residue, plant tissue or water tests could be incurred if department requests such tests.

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

(b) Reporting and paperwork requirements: Producers must apply for certification on an

annual basis and are required to submit an affidavit that they will conform to the required production practices. Producers also are required to maintain records on production practices and submit information for field inspection reports.

(2) Effects on the promulgating administrative body: The Division of Market Services would require two additional employees to administer the program.

(a) Direct and indirect costs or savings: Program cost is estimated at $37,900 for the first year and $43,200 for the second year. Cost includes salary and benefits for a program administrator and field inspector, plus operating costs.

1. First year: The initial year cost of $37,900 includes $32,900 for the salaries and benefits of a program administrator and field inspector plus $5,000 for postage, printing and travel.

2. Continuing costs or savings: Second year cost of $43,200 includes $38,200 for the salaries and benefits of a program administrator and field inspector plus $5,000 for postage, printing and travel.

3. Additional factors increasing or decreasing costs: The number of producers seeking certification will largely determine the annual cost of administering the certification program.

(b) Reporting and paperwork requirements: The department must devise and maintain producer applications, affidavits and field inspection reports. All records must be kept on file for three years.

(3) Assessment of anticipated effect on state and local revenues: Department will require an additional appropriation of $71,000 for the 1991-92 biennium to meet the costs of adding two employees and meeting administrative expenses.

(4) Assessment of alternative methods; reasons why alternatives were rejected: The only alternative would be legislation allowing a private organization to certify organic food. This was rejected due to concerns about credibility of such a program. We did not feel it appropriate to allow a nongovernmental entity to certify standards adopted by state government. We feared a potential conflict of interest and a lack of sufficient consumer protection.

(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 that pertains to organic food production.

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: The department is seeking these administrative regulations because of increased interest in the production and marketing of organic foods. Currently, 19 states have laws and regulations pertaining to the certification of organic foods. This organic food certification program will enhance the market value of organic food, thereby increasing farmer income. The program also will protect consumers by ensuring that food labeled as organic meets acceptable standards.

TIERING: Was tiering applied? No. This administrative regulation affects only the class of producers and processors of organic food who seek certification by the department.

JUSTICE CABINET
Department of Criminal Justice Training

500 KAR 2:030. Special law enforcement officers: evaluation examination.

RELATES TO: KRS 61.906

STATUTORY AUTHORITY: KRS Chapter 13A, 15A.160, 61.904

NECESSITY AND FUNCTION: KRS 61.906 authorizes the Secretary of Justice to issue a commission to a person who has successfully completed a written, oral and practical examination, approved by the council, dealing comprehensively with certain prescribed subject areas and demonstrates knowledge and proficiency in firearms safety, range firing and first aid. This regulation prescribes requirements for applying for an evaluation examination and the contents and requirements for such examinations.

Section 1. Application. A person who desires to receive a commission as a special law enforcement officer may file an application for an evaluation examination and waiver of training requirements with the Secretary of Justice. The application is made a part hereof by reference.

Section 2. Evaluation Examination. (1) After the Secretary of Justice has received an application for an evaluation examination and waiver and upon a determination that statutory requirements have been met, the secretary may recommend a candidate for training.

(2) When the Secretary of Justice recommends a candidate for an evaluation examination the Department of Criminal Justice Training shall administer the examination as soon as is reasonably convenient upon written notice to the applicant.

(3) The evaluation examination shall test the knowledge and ability of the applicant in five (5) areas. The areas are:

(a) Introduction to law enforcement;
(b) Law enforcement procedures;
(c) Physical security and safety;
(d) Firearms academics;
(e) Firearms practical.

The first four (4) areas are to be tested by written testing procedures. The fifth area is to be a practical firearms proficiency test to be given on a pistol range. That test will consist of eighteen (18) rounds, fired in three (3) sets, from the "weaver stance" at the seven (7) yard line; and eighteen (18) rounds, six (6) rounds point shoulder, six (6) rounds kneeling (strong hand), six (6) rounds kneeling (weak hand), all to be fired from the fifteen (15) yard line.

Candidates participating in the firearms practical evaluation examination shall furnish their firearms (not greater than forty-five (45) caliber) and ammunition for the exercises.

(4) If the candidate passes fifty (50) percent or more of the five (5) examination areas he must take and successfully complete those areas of the special law enforcement officers 120 hour basic course that are comparable to the failed areas. If the candidate fails more than fifty (50) percent of the examination areas he must

successfully take and complete the entire 120 hour basic course. Seventy (70) percent or greater of correct answers shall constitute a passing grade. If a candidate holds a valid American Red Cross Multi-media card or a recognized equivalent the first aid portion of the examination shall be waived.

W. MICHAEL TROOP, Secretary
APPROVED BY AGENCY: February 5, 1990
FILED WITH LRC: February 12, 1990 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on March 27, 1990 at 10 a.m. at Room 352 Stratton Building, Kit Carson Drive, Richmond, Kentucky 40475. Individuals interested in attending this hearing shall notify this agency in writing by March 19, 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: A. Jack May, Director, Administrative Division, Department of Criminal Justice Training, Kit Carson Drive, Richmond, Kentucky 40475-3131. (606)622-1023.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: A. Jack May

(1) Type and number of entities affected: The only entities affected are those persons who apply to the Secretary of the Justice Cabinet for a commission as a special law enforcement officer to protect and enforce the law on public property. In lieu of a mandated 120-hour training course applicants may qualify to take an evaluation examination the results of which may excuse an applicant from taking all or a portion of training. It is impossible to state the specific number of entities specifically affected but in the past year an average of eight persons have applied for a commission per month.

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

1. First year: An entity could save the tuition cost of $450, housing costs of $210 and meals of $180 for a three week course if housed and fed at the training facility. The statutory cost of the examination is $35 thus a maximum savings of $805.

2. Continuing costs or savings: None as there is no continuing training required.

3. Additional factors increasing or decreasing costs (note any effects upon competition): The amount of costs is dependent upon the length of training and whether or not the trainee utilizes the housing and meal facilities of the Department of Criminal Justice Training.

(b) Reporting and paperwork requirements: Paperwork consists of an order (contract) for training and an invoice for each trainee or trainees being trained.

(2) Effects on the promulgating administrative body: Codifies into regulation that which has previously been managed by internal policy.

(a) Direct and indirect costs or savings: There is a staff cost to the Department of Criminal Justice Training in the form of instructors and administrators plus overhead for testing purposes and teaching. If a trainee passes all or a part of an evaluation examination the reduced instruction time which ensues reduces Department of Criminal Justice Training training costs.

1. First year: Depends on number of applicants.

2. Continuing costs or savings: Depends on number of applicants.

3. Additional factors increasing or decreasing costs: Depends on whether sufficient staff is available to teach in this field of special law enforcement or whether special staff has to be utilized on a part-time basis.

(b) Reporting and paperwork requirements: Paperwork consists of an order (contract) for training and an invoice for each trainee or trainees being trained.

(3) Assessment of anticipated effect on state and local revenues: Unknown because it cannot be determined how many will seek training either a complete course or a part dependent on the result of an evaluation examination.

(4) Assessment of alternative methods; reasons why alternative were rejected: Alternative methods rejected because of statutory mandates and because methods adopted have proven acceptable by experience.

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

(a) Necessity of proposed regulation if in conflict: Not applicable.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. There is only one class of the special law enforcement officers. All such officers whose statutory duty is to protect and enforce the law on public property do the same things. The nature, extent, and location of the public property might be different but the duties, authority and obligations of the officers are the same.

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. Only a part of local government.

3. State the aspect or service of local government to which this administrative regulation relates. Should a local government or state government desire to provide special law enforcement officers to protect and enforce the law on public property such officer could be commissioned to perform these special duties.

4. How does this administrative regulation affect the local government or any service it provides? This regulation affects the local government seeking the commissioning of special law enforcement officers by providing a means of meeting training requirements in the way of an evaluation examination.

JUSTICE CABINET
Department of Criminal Justice Training

503 KAR 3:010. Basic law enforcement training course trainee conduct requirements; procedures and penalties.

RELATES TO: KRS 15A.070
STATUTORY AUTHORITY: KRS Chapter 13A, 15A.160
NECESSITY AND FUNCTION: KRS 15A.070 authorizes Department of Criminal Justice Training to establish, supervise and coordinate training programs and schools for law enforcement personnel. This regulation prescribes conduct requirements of trainees attending basic law enforcement training courses conducted by the Department of Criminal Justice Training, prescribes procedures for disciplinary action, and sets penalties.

Section 1. Conduct. A trainee attending a basic training course conducted by the Department of Criminal Justice Training shall be subject to the following rules of conduct:

(1) Absences.

(a) For the purpose of this section, absence is defined as not being physically present in a class.

(b) Any absences of less than twenty (20) percent of the subject area, excused or unexcused, must be made up by completion of an assignment in a manner approved by the section supervisor. Any absence, excused or unexcused, of twenty (20) percent or more, requires the trainee to repeat the area of instruction. Any test occurring during an unexcused absence cannot be made up by the trainee.

(c) To be excused, absences must be for legitimate reasons such as sickness, court appearances, or other emergencies. Written notice must be given when possible before the absence or on the first day upon returning in unexpected absence.

(2) Academy uniforms.

(a) Cadet uniform of the day. A uniform of the day is required by the Department of Criminal Justice Training. Cleaning and maintaining the uniform is the trainees' responsibility. Daily inspections will be made and the trainee must wear the uniform in the manner prescribed below.

(b) The uniform shall be clean and well pressed. Department collar pins will be worn centered on the collar parallel to the top edge and three-fourths (3/4) inch back from the vertical edge of the collar. The collar pins shall be cleaned and shined.

(c) The trainee name tag shall be centered on the left breast pocket flap.

(d) One (1) pen, the same color as the officer's collar pins, may be carried in the left breast pocket.

(e) The shirt sleeves shall not be worn rolled up nor any button on the shirt unfastened except the collar button.

(f) Each trainee shall wear a clean white high neck polo shirt with an unstretched collar under his uniform shirt.

(g) A plan buckle black belt approximately one (1) inch or more in width must be worn with the trousers (with the exception of female trainee trousers).

(h) Black or navy blue socks shall be worn while in uniform.

(i) All trainees shall wear clean, shined black leather, plain-toed, police-type shoes, except as directed by class coordinator dependent on nature of course activity.

(j) Trainees shall wear the DOCJT visored utility cap as part of the designated basic training uniform.

(k) The visored utility cap shall be worn during roll call, inspection (excluding graduation), and all outdoor exercises.

(l) The visored utility cap, when worn, shall not be tipped backwards or worn to one side; it shall be worn either straight away or slightly forward.

(m) The brim or visor of the visored utility cap shall not be rolled or creased.

(n) The DOCJT tee-shirt shall only be worn during physical training.

(3) Alcoholic beverages or other intoxicating substances.

(a) A trainee shall not possess, consume nor be under the influence of alcoholic beverages or controlled substances not therapeutically prescribed by a physician while on property utilized by the Department of Criminal Justice Training.

(b) If a trainee has taken a controlled substance as prescribed by a physician or has taken any other medication, whether prescribed or not, he shall not participate in any training activity if he is under the influence thereof to the extent that the trainee may be impaired or may endanger himself or other persons or property. A trainee shall advise the basic course supervisor of the use of controlled substances or medication whether or not it has been prescribed by a physician.

(4) Breaks.

(a) Each class may be allowed a ten (10) minute break per hour of instruction when possible. The course instructor shall designate the specific time and place for breaks.

(b) Basic trainees, attending class in the Stratton Building, are prohibited from taking breaks (including lunch time before or after eating) except in the following designated areas:

1. Lower level of breezeway (outside, between main building and gym);
2. Upper level of the Stratton Cafeteria; and
3. Second floor vending area - only when cafeteria is closed.

(5) Chain of command.

(a) All communications shall follow chain of command of the Department of Criminal Justice Training.

(b) Exceptions are permissible when necessary in conducting a training session.

(6) Conduct unbecoming an officer trainee.

(a) A trainee shall not conduct himself in a manner unbecoming an officer trainee.

(b) For the purposes of this section conduct unbecoming an officer trainee shall consist of, but not be limited to:

1. Inefficient or wasteful use of materials, supplies and equipment issued by the Department of Criminal Justice Training for the use by trainees;
2. Disorderly or boisterous behavior which is or may become disruptive to a training session;
3. Careless, negligent, or inattentive conduct which creates or may create a risk of injury to others during a training session;
4. Malingering or sleeping during a training class;
5. Wearing clothing that is so dirty or tattered as to present a slovern appearance;
6. Wearing clothing in a manner that is

sexually revealing or suggestive; or
7. Aiding or abetting another in any of the foregoing.
(7) Dishonesty.
(a) A trainee shall not cheat or attempt to cheat on an examination, other evaluation or assigned project; alter or attempt to alter an examination score; deceive for profit or gain; or steal.
(b) A trainee shall not encourage, aid or abet any trainee in any of the foregoing proscribed conduct.
(8) Dormitory conduct.
(a) Basic training course trainees unless excepted shall reside in the dormitory designated by the Department of Criminal Justice Training during basic training and shall not travel to their homes except on weekends or holidays when school is not in session. Circumstances which would require emergency leave will be addressed by the training director on a case-by-case basis. A trainee who lives in Clark, Estill, Fayette, Garrard, Jackson, Jessamine, Madison or Rockcastle County may be permitted to commute to training if the trainee's chief or chief law enforcement officer so requests in writing and agrees to accept the condition that if such trainee is tardy for roll call three (3) times the trainee's privilege to commute shall be withdrawn and required to live in the dormitory for the remainder of the course.
(b) Basic training course trainees shall return to their dormitory rooms by 10:30 p.m., Sunday through Thursday evenings, and remain there until 5 a.m. the next morning. Exceptions must be approved by the class coordinator and reported through channels to the director, in writing.
(c) Backing into parking spaces is prohibited.
(d) Basic training course trainees shall observe "lights out" by 11 p.m. Sunday through Thursday except on nights prior to an academic test when the time will be extended to 12 midnight.
(e) Trainees living in the dormitory shall conduct themselves in an orderly manner. Any dangerous or disruptive behavior such as but not limited to rowdiness, loud noise, theft, immoral or obscene conduct shall not be committed.
(f) Each trainee will be responsible for cleaning his area. Each morning, prior to leaving for class, the trainee must ensure his room is clean, free of trash, beds made and the room ready for inspection.
(g) Doors must be locked whenever a room is unattended. While the room is unoccupied during training hours (8 a.m. - 5 p.m.), the window coverings must be left open to their widest extension.
(h) The use of cooking appliances such as hot plates, electric skillets and ovens is prohibited.
(i) All dorm rooms and lockers are subject to inspection search for purposes of safety, sanitation and rule violations by the staff of the Department of Criminal Justice Training.
(j) The lobby of the dormitory is available to entertain visitors and guests and is not to be used as a group study area.
(k) A trainee residing at the dormitory shall:
1. Turn off all lights upon departure from the room;
2. Turn off air conditioner when leaving the room for a long period of time, including school hours and weekends while away; and
3. Turn off heating unit when leaving the room for a long period of time unless the temperature is near freezing - then leave the heater on low.
(l) A trainee shall not have any person of the opposite sex in his or her dormitory room without written permission of the class coordinator or higher staff member. No visitation shall be permitted after 10:30 p.m.
(m) Pets, animals or birds of any kind shall not be kept in rooms of the dormitory facilities.
(9) General classroom conduct.
(a) Trainees conducting themselves in a boisterous or disruptive manner which does or may interfere with the orderly presentation of training materials or instruction is prohibited and may be removed from the classroom at the option of the instructor.
(b) The use of tobacco, drink or food products and the wearing of hats or caps is prohibited in all classrooms in which Department of Criminal Justice Training classes are being conducted. The use of head cover may be permitted by an instructor in outdoor classroom training sessions.
(c) As used in this section, classroom includes all indoor facilities and outdoor areas utilized by the Department of Criminal Justice Training for training purposes whether the facilities are regularly utilized by the department or periodically utilized such as state parks, hotels/motels, law enforcement agencies or colleges and universities.
(10) Gifts. A trainee, individually or as a participant in group action, shall not give or contribute toward the giving of a gift of value to a staff member or guest instructor of the Department of Criminal Justice Training while participating as a trainee in any course conducted by the Department of Criminal Justice Training.
(11) Grooming (personal).
(a) The training shall be clean shaven with sideburns no longer than the bottom of the ear lobe. Mustaches are permitted if they are neatly kept, but only if the trainee has the mustache upon arrival. Beards shall not be permitted without the trainee's written departmental approval. The trainee shall not have hair that is unkept nor longer than medium length. The hair must not be over the collar, with the exception of female trainees.
(b) Personal appearance shall be such as to project an image which will reflect favorably upon the trainee as well as the Department of Criminal Justice Training and the trainee's employing agency.
(c) Clothing, jewelry or other accessories which depict obscenities (either pictorially or written) or any symbol representing objects not considered in good taste (based on professional police standards, or which depict words considered abusive) cannot be worn while attending Department of Criminal Justice Training classes or while on Department of Criminal Justice Training or campus property.
(12) Improper charges to the Department of Criminal Justice Training.
(a) A trainee shall not charge any item or service to the Department of Criminal Justice Training without written approval of an authorized Department of Criminal Justice Training representative.
(b) A trainee shall not willfully or negligently damage, destroy, or fail to return property of the Department of Criminal Justice

Training or university. Failure to comply with this regulation shall result in a trainee having to replace or pay for the damaged, destroyed or lost property.

(c) A trainee cannot be considered to have successfully completed basic training, and will not be allowed to graduate, until he has returned all issued items or made satisfactory arrangements to pay for nonreturned items or damaged items.

(13) Insubordination.

(a) A trainee shall not be insubordinate.

(b) For the purpose of this section insubordination means:

1. A refusal to obey a lawful order from an instructor or other staff member of the Department of Criminal Justice Training authorized to convey the order;

2. Disrepectful conduct consisting of, but not limited to, use of vulgarity, rude remarks, obscene comments or gestures.

(14) Tardiness.

(a) Class shall begin and end promptly as scheduled unless otherwise specified. All trainees are expected to be punctual for class and school functions.

(b) Those who are late during the first ten (10) minutes of a class without justification shall be considered tardy.

(c) Arrival after ten (10) minutes will be considered an absence.

(15) Weapons, explosive substances, and other devices.

(a) Weapons.

1. Deadly weapons (as defined in KRS 500.080) or ammunition therefore shall not be possessed on university, college or governmental property used by the Department of Criminal Justice Training except those specifically authorized by the Department of Criminal Justice Training. Weapons specifically designated by the Department of Criminal Justice Training for training purposes and which are not provided by the Department of Criminal Justice Training shall only be brought directly to the facilities of the department at specific times and removed all as may be deemed appropriate by the department. Such weapons may not be stored in trainee vehicles parked on property utilized by the Department of Criminal Justice Training.

2. Weapons specifically designated by the Department of Criminal Justice Training to be used for training purposes shall be stored in a vault to be provided by the department at all times when they are not being used directly in a training session and may be removed only for scheduled training, servicing, cleaning, or repair purposes. Servicing, cleaning, and repairs of weapons shall be effected (other than repairs which may require expertise of a qualified gunsmith) only at times, places and subject to such conditions and supervision as may be approved by the supervisor of the basic training section. Such activity shall only be conducted in the presence of a certified firearms instructor.

(b) Devices other than firearms.

1. Destructive devices (as defined in KRS 237.030), booby trap devices (as defined in KRS 237.030), "stun" guns, or fireworks (in all forms) shall not be possessed on university, college or governmental property used by the Department of Criminal Justice Training.

2. Exceptions may occur for training purposes and then only as they may be provided by the department.

(c) Hazardous substances.

1. Hazardous substances (as defined in KRS 224.877) shall not be possessed on university, college or governmental property used by the Department of Criminal Justice Training.

2. Exceptions may occur for training purposes and then only as they may be provided by the department.

(d) Confiscation.

1. Any instructor, supervisor, assistant director or director who observes any violation of this section, shall immediately confiscate the offending item or substance.

2. These items shall then be stored in a safe and secure facility of the Department of Criminal Justice Training pending appropriate disposition.

Section 2. Summary Action. (1) Recognizing that conduct of a trainee may constitute an immediate danger or a immediate threat of danger to self or others, an instructor, section supervisor, training assistant director, director or the commissioner, having knowledge of such conduct, may summarily discipline the trainee by reprimand, suspension from the particular training activity or by other appropriate action.

(2) Following such disciplinary action, the foregoing rules of procedure set forth in Section 4 of this regulation shall be applicable.

Section 3. Penalties. (1) For the following violation:

(a) Alcoholic beverages or other intoxicating substances, i.e., being on property utilized by the Department of Criminal Justice Training while under the influence of alcoholic beverages or controlled substances not prescribed by a doctor, or if prescribed by a doctor participating in a training exercise while under the influence thereof to the extent that it endangers the trainee or other persons or property;

(b) Conduct unbecoming an officer trainee, i.e., willful, careless, negligent or inattentive conduct which causes injury or creates a grave risk of injury to another person or property;

(c) Dishonesty;

(d) Dormitory conduct, consisting of disorderly conduct proscribed by Section 1(7)(e) of this regulation;

(e) Property loss or damage, i.e., willfully or negligently damaging, destroying or failing to return property of the Department of Criminal Justice Training or university;

(f) Weapons and explosives;

(g) A second violation of the rules described in Section 1(1)(b) of this regulation. The following penalty may be imposed:

1. Expulsion from training with or without prejudice. (Such expulsion shall be deemed a course failure);

2. Loss of privileges (meals, housing or both);

3. Suspension from training. (Such suspension shall be deemed a failure for that portion of training);

4. Written reprimand (with a copy filed with trainee's employing agency);

5. Probation.

(2) For the following violations:

(a) Alcoholic beverages or other intoxicating substances, i.e., the use or possession thereof

not prescribed by a doctor on or about property utilized by the Department of Criminal Justice Training; possession of alcoholic beverages and/or intoxicating substances in a dormitory room shall result in loss of housing privilege;

(b) Conduct unbecoming an officer trainee except that which causes injury or damage to others or property per subsection (1) of this section;

(c) Curfew violation as proscribed by this subsection;

(d) Improper charges to the Department of Criminal Justice Training;

(e) Insubordination;

(f) Two (2) violations of other rules. The following penalty may be imposed:

1. Loss of privileges (meals, housing or both);

2. Suspension from training not to exceed five (5) days (such suspension shall be deemed a failure for that portion of training);

3. Written reprimand (with a copy filed with trainee's employing agency);

4. Probation.

(3) For all other violations not specifically noted in subsections (1) and (2) of this section the following penalty may be imposed:

(a) Written reprimand;

(b) Written warning;

(c) Probation.

Section 4. Who May Impose Penalties. (1) Instructor. An instructor may only impose a penalty consisting of a written warning.

(2) Supervisor. A supervisor may only impose a penalty consisting of a written warning, a written reprimand or a probation.

(3) Training director. The director of the training division may only impose a penalty consisting of a written warning, written reprimand, suspension from training, a loss of privileges or probation.

(4) Commissioner. The commissioner may impose a penalty consisting of any of the previously identified penalties, expulsion from training or probation.

Section 5. Complaint Process. (1) Complaint. any employee of the Department of Criminal Justice Training, guest instructor, guest or any basic course trainee having reasonable grounds for believing that a trainee has violated any of the rules of conduct identified herein or any violation of the law may file a complaint with the supervisor of the basic training section. This complaint should be but is not required to be in writing setting forth the facts upon which the complaint is based. If an instructor or the supervisor observes a violation of a rule for which only a penalty of a written warning or reprimand is provided a complaint need not be filed.

(2) Review of complaint.

(a) Upon receiving a complaint of a violation of these rules of conduct or of a violation of law the supervisor of the basic training section shall inquire into the matter and take such statements as may be advisable.

(b) After an inquiry into and review of the complaint the supervisor of the basic section may dispose of the complaint by the issuance of a written warning or reprimand or file charges.

(c) If the supervisor of the basic section deems it advisable to file charges the file together with the written request specifying the proscribed conduct shall be forwarded to the legal officer.

(3) Charges.

(a) Upon receipt of a request for charges, the legal officer shall review the request and the file to determine the sufficiency of the requested charge.

(b) The legal officer may make or cause further inquiry into the matter for additional information.

(c) The legal officer shall file such charges against a trainee as the legal officer believes is justified from the file and further inquiry or may deny the request for charges if the facts do not support any charges. If the legal officer declines to proceed with charges he shall notify the commissioner with a statement of reasons and the commissioner shall review the decision.

(4) Form.

(a) Charges shall be in writing.

(b) The proscribed conduct shall be particularly described so as to reasonably inform the trainee of the nature of the allegation.

(c) The charges form shall state the time, date and place the trainee shall be required to appear and plead to the charges.

(d) The legal officer shall sign the charges form and have a copy served upon the trainee either in person or by mail.

Section 6. Summary Disposition. (1) At the appearance of the trainee the charges shall be read to the trainee and explained if need be.

(2) The trainee shall be advised of a proposed penalty to be assessed in the event the charges are admitted or in the event the trainee denies the charge but waives a hearing.

(3) The trainee shall be requested to enter a plea.

(4) If the trainee admits the charge he shall be permitted to make a statement of explanation.

(5) If the trainee admits the charge or denies the charge but waives a hearing, penalty shall be assessed and an order entered.

(6) If the trainee denies the charge and requests a hearing a date and place shall be forthwith determined and the trainee notified either in person or by mail.

Section 7. Hearing. (1) The hearing shall be open.

(2) A trainee charged with a violation shall have the right to be present at a hearing, to testify, to present evidence in his own behalf, present witnesses, and to question those testifying against him.

(3) Formal rules of evidence and procedures shall not be applicable.

(4) The hearing shall be recorded by audio means but need not be transcribed.

(5) Affidavits may be received provided a copy is served on the other side not less than five (5) days prior to the hearing.

(6) The legal officer shall prepare a finding of fact, conclusion of law and order at the conclusion of the hearing pursuant to direction of the staff member conducting the hearing.

Section 8. Review. (1) A penalty imposed by an instructor, supervisor or director shall be automatically reviewed by the next highest level in the chain of command.

(2) The review shall be made on the record only, i.e., on the audio recording of evidence, documents and statements introduced at the

initial hearing.

(3) The review shall be limited to a determination of whether there are reasonable grounds for believing that the charge or charges have been sustained by the evidence and whether the penalty imposed is commensurate with the seriousness of the evidence.

Section 9. Appeal. (1) A trainee may appeal an order entered by the commissioner which imposes a penalty adverse to the trainee by filing a written notice of appeal to the Secretary of the Justice Cabinet.

(a) The notice of appeal shall state the point (reasons) on which the appeal is based and shall be on a form provided by the Department of Criminal Justice Training. The form is made a part hereof by reference.

(b) A copy of the order being appealed shall be attached to the notice of appeal.

(c) A copy of the notice of appeal shall be delivered to the Commissioner of the Department of Criminal Justice Training by certified mail.

(2) The appeal shall not be heard de novo but shall be determined upon the audio record and any written or physical evidence introduced at the initial hearing.

(3) The Secretary of the Justice Cabinet shall render an opinion within sixty (60) days of receipt of the notice of appeal.

COMMONWEALTH OF KENTUCKY
JUSTICE CABINET

In the matter of:

_____
(Name)

NOTICE OF APPEAL

Comes _____ (name) who appeals from an Order of the Commissioner of the Department of Criminal Justice Training dated _____, 19____, a copy of which is annexed hereto and made a part hereof, and requests that said Order be reversed and held for naught.

The basis and reasons for this appeal are as follows: _____

This the _____ day of _____, 19___.

_____
NAME AND ADDRESS
_____
_____
_____

Served on the Department of Criminal Justice Training by mailing a true copy hereof to the Commissioner thereof by certified mail this the _____ day of _____, 19___.

_____
NAME

W. MICHAEL TROOP, Secretary

APPROVED BY AGENCY: January 5, 1990

FILED WITH LRC: February 12, 1990 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on March 27, 1990 at 10 a.m. at Room 352 Stratton Building, Kit Carson Drive, Richmond, Kentucky 40475. Individuals interested in attending this hearing shall notify this agency in writing by March 19, 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: A. Jack May, Director, Administrative Division, Department of Criminal Justice Training, Kit Carson Drive, Richmond, Kentucky 40475-3131. (606)622-1023.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: A. Jack May

(1) Type and number of entities affected: All governmental agencies which maintain law enforcement units and require the officers thereof to complete a law enforcement basic training course now conducted by the Department of Criminal Justice Training. At present there are 180 cities, 12 counties, sheriffs departments, universities, airport security departments and other so participating.

(a) Direct and indirect costs or savings to those affected: There are no costs or savings to those affected.

1. First year: Not applicable.
2. Continuing costs or savings: Not applicable.
3. Additional factors increasing or decreasing costs (note any effects upon competition): Not applicable.

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: Provides a clear and concise code of conduct for officers in training at basic training courses conducted by the Department of Criminal Justice Training and sets forth appeal rights and procedures. This enables the Department of Criminal Justice Training to more effectively administer its program in a uniform and equitable manner.

(a) Direct and indirect costs or savings: Actual costs or savings can not be ascertained. Indirect costs and savings come from normal uniform administrative practices.

1. First year: Not applicable.
2. Continuing costs or savings: Not applicable.
3. Additional factors increasing or decreasing costs: Not applicable.

(b) Reporting and paperwork requirements: Very rarely will paperwork be involved as it is dependent on number of violations and corresponding documenting of such incidents.

(3) Assessment of anticipated effect on state and local revenues: There is no effect on state and local revenues as this regulation addresses conduct, not revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: These provisions are not new. These rules have been enforced previously by internal policy and have been modified as need and experience over the years has dictated. Therefore other alternative rules have been utilized and found wanting.

(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: These provisions affecting other than the employees of the Department of Criminal Justice Training are being converted from internal policy into regulations.

TIERING: Was tiering applied? No. Tiering not applied because there are not different classifications of attendees in a basic training course. All trainees are required to meet same training standards and therefore the same conduct standards should apply to all trainees in attendance in training or while utilizing furnished facilities.

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. Affects only a part or division of local government.

3. State the aspect or service of local government to which this administrative regulation relates. Relates to law enforcement officers employed by the local government or other governmental entities who participate in a basic law enforcement training course conducted by the Department of Criminal Justice Training.

4. How does this administrative regulation affect the local government or any service it provides? Regulates the conduct of law enforcement officers while attending a basic law enforcement course, i.e., what conduct is or is not permissible. In addition it prescribes procedures in cases of alleged violations.

JUSTICE CABINET
Department of Criminal Justice Training

503 KAR 3:020. In-service law enforcement training course trainee conduct requirements; procedures and penalties.

RELATES TO: KRS 15A.070

STATUTORY AUTHORITY: KRS Chapter 13A, 15A.160

NECESSITY AND FUNCTION: KRS 15A.070 authorizes Department of Criminal Justice Training to establish, supervise and coordinate training programs and schools for law enforcement personnel. This regulation prescribes conduct requirements of trainees attending in-service law enforcement training courses conducted by the Department of Criminal Justice Training, prescribes procedures for disciplinary action, and sets penalties.

Section 1. Conduct. A trainee attending a training course conducted by the Department of Criminal Justice Training shall be subject to the following rules of conduct:

(1) Absences.

(a) For the purpose of this section, absence is defined as not being physically present in a class.

(b) Any absences of less than twenty (20) percent of the subject area, excused or unexcused, must be made up by completion of a special assignment determined by the instructor of the missed subject area and approved by the supervisor of the section conducting the course. Any absence, excused or unexcused, of twenty (20) percent or more, requires the trainee to repeat the area of instruction. Any test that occurs during an unexcused absence cannot be made up.

(c) To be excused, absences must be for legitimate reasons such as sickness, court appearances, and emergencies. Written notice must be given when possible before the absence or on the first day upon returning in unexpected absences.

(2) Alcoholic beverages or other intoxicating substances.

(a) A trainee shall not possess, consume nor be under the influence of alcoholic beverages or controlled substances not therapeutically prescribed by a physician while on property utilized by the Department of Criminal Justice Training.

(b) If a trainee has taken a controlled substance as prescribed by a physician or has taken any other medication whether prescribed or not he or she shall not participate in any training activity if the trainee is under the influence thereof to the extent that the trainee may be impaired or may endanger himself or other persons or property. A trainee shall advise the in-service course supervisor of the use of controlled substances or medication whether or not it has been prescribed by a physician.

(3) Appearance.

(a) Personal appearance shall be such as to project an image which will reflect favorably upon the student officer as well as the Department of Criminal Justice Training and the student officer's employing agency.

(b) Clothing, jewelry or other accessories which depict obscenities (either pictorially or written) or any symbol representing objects not considered in good taste (based on professional police standards, or which depict words considered abusive) cannot be worn while attending Department of Criminal Justice Training classes or while on Department of Criminal Justice Training or campus property.

(4) Breaks.

(a) Each class may be allowed a ten (10) minute break per hour of instruction when possible. The course instructor shall designate the specific time and/or place for breaks.

(b) Trainees, attending class in the Stratton Building, are prohibited from taking breaks except in the following designated areas:

1. Lower level of breezeway (outside, between main building and gym);
2. Stratton Cafeteria; and
3. Second floor vending area.

(5) Conduct unbecoming an officer trainee.

(a) A trainee shall not conduct himself in a manner unbecoming an officer trainee.

(b) For the purposes of this section conduct unbecoming an officer trainee shall consist of, but not be limited to:

1. Inefficient or wasteful use of materials, supplies and equipment issued by the Department of Criminal Justice Training for the use by trainees;

2. Disorderly or boisterous behavior which is

or may become disruptive to a training session;
3. Careless, negligent, or inattentive conduct which creates or may create a risk of injury to others during a training session;
4. Malingering or sleeping during a training class;
5. Wearing clothing that is so dirty or tattered as to present a slovern appearance;
6. Wearing clothing in a manner that is sexually revealing or suggestive; or
7. Aiding or abetting another in any of the foregoing.
(c) Disruptive trainees may be removed from the class room at the option of the instructor.
(d) The use of tobacco, drink and food products is prohibited in all classrooms in which Department of Criminal Justice Training classes are being conducted. This policy will apply to meeting rooms in state parks, hotels and rooms of other agencies, if used in a classroom setting and for teaching a Department of Criminal Justice Training course of class, or when being used for Department of Criminal Justice Training sponsored seminar.
(e) As used in this section, classroom includes all indoor facilities and outdoor areas utilized by the Department of Criminal Justice Training for training purposes whether the facilities are regularly utilized by the department or periodically utilized such as state parks, hotels/motels, law enforcement agencies or colleges and universities.
(6) Dishonesty.
(a) A trainee shall not cheat or attempt to cheat on an examination, other evaluation or assigned project; alter or attempt to alter an examination score; deceive for profit or gain; or steal.
(b) A trainee shall not encourage, aid or abet any trainee in any of the foregoing proscribed conduct.
(7) Dormitory conduct.
(a) Backing into parking spaces is prohibited.
(b) Trainees shall observe "lights out" by 11 p.m. Sunday through Thursday except on nights prior to an academic test when the time will be extended to 12 midnight.
(c) Trainees living in the dormitory shall conduct themselves in an orderly manner. Any dangerous or disruptive behavior such as but not limited to rowdiness, loud noise, theft, immoral or obscene conduct shall not be committed.
(d) Each trainee will be responsible for cleaning his area. Each morning, prior to leaving for class, the trainee must ensure his room is clean, free of trash, beds made and the room ready for inspection.
(e) Doors must be locked whenever a room is unattended. While the room is unoccupied during training hours (8 a.m. - 5 p.m.), the window coverings must be left open to their widest extension.
(f) The use of cooking appliances such as hot plates, electric skillets and ovens is prohibited.
(g) All dorm rooms and lockers are subject to inspection search for purposes of safety, sanitation and rule violations by the staff of the Department of Criminal Justice Training.
(h) The lobby of the dormitory is available to entertain visitors and guests and is not to be used as a group study area.
(i) A trainee residing at the dormitory shall:
1. Turn off all lights upon departure from the room;
2. Turn off air conditioner when leaving the room for a long period of time, including school hours and weekends while away; and
3. Turn off heating unit when leaving the room for a long period of time unless the temperature is near freezing - then leave the heater on low.
(j) A trainee shall not have any person of the opposite sex in his or her dormitory room without written permission of the class coordinator or higher staff member. No visitation shall be permitted after 10:30 p.m.
(k) Pets, animals or birds of any kind shall not be kept in rooms of the dormitory facilities.
(8) Gifts. A trainee, individually or as a participant in group action, shall not give or contribute toward the giving of a gift of value to a staff member of Department of Criminal Justice Training while participating as a trainee in any course conducted by the Department of Criminal Justice Training.
(9) Insubordination.
(a) A trainee shall not be insubordinate.
(b) For the purpose of this section insubordination means:
1. A refusal to obey a lawful order from an instructor or other staff member of the Department of Criminal Justice Training authorized to convey the order;
2. Disrepectful conduct consisting of, but not limited to, use of vulgarity, rude remarks, obscene comments or gestures.
(10) Property loss or damage.
(a) A trainee shall not willfully or negligently damage, destroy, or fail to return property of the Department of Criminal Justice Training or university.
(b) Failure to comply with this regulation shall result in a trainee having to replace or pay for the damage, destroyed or lost property upon notification.
(11) Tardiness.
(a) Class shall begin and end promptly as scheduled unless otherwise specified. All trainees are expected to be punctual for class and school functions.
(b) Those who are late during the first ten (10) minutes of a class without justification shall be considered tardy.
(c) Arrival after ten (10) minutes will be considered an absence.
(12) Weapons, explosives, etc.
(a) Weapons.
1. Deadly weapons as defined in KRS 500.080 other than an officer's regular service weapon or authorized off-duty weapon including ammunition therefore shall not be possessed on university, college or governmental property used by the Department of Criminal Justice Training except those specifically authorized by the Department of Criminal Justice Training. Weapons specifically designated by the Department of Criminal Justice Training for training purposes and which are not provided by the Department of Criminal Justice Training shall only be brought directly to the facilities of the department at specific times and removed all as may be deemed appropriate by the department. Such weapons may not be stored in trainee vehicles parked on property utilized by the Department of Criminal Justice Training.
2. Weapons specifically designated by the Department of Criminal Justice Training to be used for training purposes shall be stored in a vault to be provided by the department at all times when they are not being used directly in a

training session and may be removed only for scheduled training, servicing, cleaning, or repair purposes. Servicing, cleaning, and repairs of weapons shall be effected (other than repairs which may require expertise of a qualified gunsmith) only at times, places and subject to such conditions and supervision as may be approved by the supervisor of the in-service training section. Such activity shall only be conducted in the presence of a certified firearms instructor.

(b) Devices other than firearms. Destructive devices (as defined in KRS 237.030), booby trap devices (as defined in KRS 237.030), "stun" guns, or fireworks (in all forms) shall not be possessed on university, college or governmental property used by the Department of Criminal Justice Training. Exceptions may occur for training purposes and then only as they may be provided by the department.

(c) Hazardous substances. Hazardous substances (as defined in KRS 224.877) shall not be possessed on university, college or governmental property used by the Department of Criminal Justice Training. Exceptions may occur for training purposes and then only as they may be provided by the department.

(d) Confiscation.

1. Any instructor, supervisor, assistant director or director who observes any violation of this section, shall immediately confiscate the offending item or substance.

2. These items shall then be stored in a safe and secure facility of the Department of Criminal Justice Training pending appropriate disposition.

Section 2. Summary Action. (1) Recognizing that conduct of a trainee may constitute an immediate danger or a immediate threat of danger to self or others, an instructor, section supervisor, training assistant director, director or the commissioner, having knowledge of such conduct, may summarily discipline the trainee by reprimand, suspension from the particular training activity or by other appropriate action.

(2) Following such disciplinary action, the rules of procedure set forth in Section 4 of this regulation shall be applicable.

Section 3. Penalties. (1) For the following violation:

(a) Alcoholic beverages or other intoxicating substances, i.e., being on property utilized by the Department of Criminal Justice Training while under the influence of alcoholic beverages or controlled substances not prescribed by a doctor, or if prescribed by a doctor participating in a training exercise while under the influence thereof to the extent that it endangers the trainee or other persons or property;

(b) Conduct unbecoming an officer trainee, i.e., willful, careless, negligent or inattentive conduct which causes injury or creates a grave risk of injury to another person or property;

(c) Dishonesty;

(d) Property loss or damage, i.e., willfully or negligently damaging, destroying or failing to return property of the Department of Criminal Justice Training or university;

(e) A second violation of the rules described in Section 1(1)(a) of this regulation. The following penalty may be imposed:

1. Expulsion from training with or without prejudice. (Such expulsion shall be deemed a course failure);

2. Loss of privileges (meals, housing or both);

3. Suspension from training. (Such suspension shall be deemed a failure for that portion of training);

4. Written reprimand (with a copy filed with trainee's employing agency);

5. Probation.

(2) For the following violations:

(a) Alcoholic beverages or other intoxicating substances, i.e., the use or possession thereof not prescribed by a doctor on or about property utilized by the Department of Criminal Justice Training; possession of alcoholic beverages and/or intoxicating substances in a dormitory room shall result in loss of housing privilege;

(b) Conduct unbecoming an officer trainee except that which causes injury or damage to others or property;

(c) Insubordination;

(d) Weapons and explosives;

(e) Two (2) violations of other rules.

The following penalty may be imposed:

1. Loss of privileges (meals, housing or both);

2. Suspension from training not to exceed five (5) days (such suspension shall be deemed a failure for that portion of training);

3. Written reprimand (with a copy filed with trainee's employing agency);

4. Probation.

(3) For all other violations not specifically noted in subsections (1) and (2) of this section the following penalty may be imposed:

(a) Written reprimand;

(b) Written warning;

(c) Probation.

Section 4. Who May Impose Penalties. (1) Instructor. An instructor may only impose a penalty consisting of a written warning.

(2) Supervisor. A supervisor may only impose a penalty consisting of a written warning, a written reprimand or a probation.

(3) Training director. The director of the training division may only impose a penalty consisting of written warning, written reprimand, suspension from training, a loss of privileges or probation.

(4) Commissioner. The commissioner may impose a penalty consisting of any of the previously identified penalties, expulsion from training or probation.

Section 5. Complaint Process. (1) Complaint. Any employee of the Department of Criminal Justice Training, guest instructor, guest or any course trainee having reasonable grounds for believing that a trainee has violated any of the rules of conduct identified herein or any violation of the law may file a complaint with the supervisor who is conducting the particular course at the time or the supervisor of the training section handling that training program. This complaint should be, but is not required to be, in writing setting forth the facts upon which the complaint is based. If an instructor or the supervisor observes a violation of a rule for which only a penalty of a written warning or reprimand is provided a complaint need not be filed.

(2) Review of complaint.

(a) Upon receiving a complaint of a violation

of these rules of conduct or of a violation of law the supervisor of the training section of the particular training program shall inquire into the matter and take such statements as may be advisable.

(b) After an inquiry into and review of the complaint the supervisor may dispose of the complaint by the issuance of a written warning or reprimand or file charges.

(c) If the supervisor of the particular training program deems it advisable to file charges, the file together with the written request specifying the proscribed conduct shall be forwarded to the legal officer.

(3) Charges.

(a) Upon receipt of a request for charges, the legal officer shall review the request and the file to determine the sufficiency of the requested charge.

(b) The legal officer may make or cause further inquiry into the matter for additional information.

(c) The legal officer shall file such charges against a trainee as the legal officer believes is justified from the file and further inquiry or may deny the request for charges if the facts do not support any charges. If the legal officer declines to proceed with charges he shall notify the commissioner with a statement of reasons and the commissioner shall review the decision.

(4) Form.

(a) Charges shall be in writing.

(b) The proscribed conduct shall be particularly described so as to reasonably inform the trainee of the nature of the allegation.

(c) The charges form shall state the time, date and place the hearing on the charges shall be heard.

(d) The legal officer shall sign the charges form and have a copy served upon the trainee either in person or by mail.

Section 6. Summary Disposition. (1) At the appearance of the trainee the charges shall be read to the trainee and explained if need be.

(2) The trainee shall be advised of a proposed penalty to be assessed in the event the charges are admitted or in the event the trainee denies the charge but waives a hearing.

(3) The trainee shall be requested to enter a plea.

(4) If the trainee admits the charge he shall be permitted to make a statement of explanation.

(5) If the trainee admits the charge or denies the charge but waives a hearing, penalty shall be assessed and an order entered.

(6) If the trainee denies the charge and requests a hearing a date and place shall be forthwith determined and the trainee notified either in person or by mail.

Section 7. Hearing. (1) The hearing shall be open.

(2) A trainee charged with a violation shall have the right to be present at a hearing, to testify, to present evidence in his own behalf, present witnesses, and to question those testifying against him.

(3) Formal rules of evidence and procedures shall not be applicable.

(4) The hearing shall be recorded by audio means but need not be transcribed.

(5) Affidavits may be received provided a copy is served on the other side not less than five (5) days prior to the hearing.

(6) The legal officer shall prepare a finding of fact, conclusion of law and order at the conclusion of the hearing pursuant to direction of the staff member conducting the hearing.

Section 8. Review. (1) A penalty imposed by an instructor, supervisor or director shall be automatically reviewed by the next highest level in the chain of command.

(2) The review shall be made on the record only, i.e., on the audio recording of evidence, documents and statements introduced at the initial hearing.

(3) The review shall be limited to a determination of whether there are reasonable grounds for believing that the charge or charges have been sustained by the evidence and whether the penalty imposed is commensurate with the seriousness of the evidence.

Section 9. Appeal. (1) A trainee may appeal an order entered by the commissioner which imposes a penalty adverse to the trainee by filing a written notice of appeal to the Secretary of the Justice Cabinet.

(a) The notice of appeal shall state the point (reasons) on which the appeal is based and shall be on a form provided by the Department of Criminal Justice Training. The form is made a part hereof by reference.

(b) A copy of the order being appealed shall be attached to the notice of appeal.

(c) A copy of the notice of appeal shall be delivered to the Commissioner of the Department of Criminal Justice Training by certified mail.

(2) The appeal shall not be heard de novo but shall be determined upon the audio record and any written or physical evidence introduced at the initial hearing.

(3) The Secretary of the Justice Cabinet shall render an opinion within sixty (60) days of receipt of the notice of appeal.

COMMONWEALTH OF KENTUCKY
JUSTICE CABINET

In the matter of:

_____
(Name)

NOTICE OF APPEAL

Comes _____ (name) who appeals from an Order of the Commissioner of the Department of Criminal Justice Training dated _____, 19____, a copy of which is annexed hereto and made a part hereof, and requests that said Order be reversed and held for naught.

The basis and reasons for this appeal are as follows: _____

This the _____ day of _____, 19___.

_____
NAME AND ADDRESS
_____
_____
_____

Served on the Department of Criminal Justice Training by mailing a true copy hereof to the Commissioner thereof by

certified mail this the _____
day of _____, 19___

_____
NAME

W. MICHAEL TROOP, Secretary
APPROVED BY AGENCY: January 5, 1990
FILED WITH LRC: February 12, 1990 at 3 p.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on March 27, 1990 at 10 a.m. at Room 352 Stratton Building, Kit Carson Drive, Richmond, Kentucky 40475. Individuals interested in attending this hearing shall notify this agency in writing by March 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: A. Jack May, Director, Administrative Division, Department of Criminal Justice Training, Kit Carson Drive, Richmond, Kentucky 40475-3131. (606)622-1023.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: A. Jack May
(1) Type and number of entities affected: All governmental agencies which maintain law enforcement units and require the officers thereof to complete a law enforcement in-service units and require the officers thereof to complete a law enforcement in-service training course now conducted by the Department of Criminal Justice Training. At present there are 180 cities, 12 counties, sheriffs departments, universities, airport security departments and other so participating.
(a) Direct and indirect costs or savings to those affected: There are no costs or savings to those affected.
1. First year: Not applicable.
2. Continuing costs or savings: Not applicable.
3. Additional factors increasing or decreasing costs (note any effects upon competition): Not applicable.
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body: Provides a clear and concise code of conduct for officers in training at in-service training courses conducted by the Department of Criminal Justice Training and sets for appeal rights and procedures. This enables the Department of Criminal Justice Training to more effectively administer its program in a uniform and equitable manner.
(a) Direct and indirect costs or savings: Actual costs or savings can not be ascertained. Indirect costs and savings come from normal uniform administrative practices.
1. First year: Not applicable.
2. Continuing costs or savings: Not applicable.
3. Additional factors increasing or decreasing costs: Not applicable.
(b) Reporting and paperwork requirements: Very rarely will paperwork be involved as it is dependent on number of violations and corresponding documenting of such incidents.
(3) Assessment of anticipated effect on state and local revenues: There is no effect on state and local revenues as this regulation addresses conduct, not revenues.
(4) Assessment of alternative methods; reasons why alternatives were rejected: These provisions are not new. These rules have been enforced previously by internal policy and have been modified as need and experience over the years has dictated. Therefore other alternative rules have been utilized and found wanting.
(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: These provisions affecting other than the employees of the Department of Criminal Justice Training are being converted from internal policy into regulations.
TIERING: Was tiering applied? No. Tiering not applied because there are not different classifications of attendees in an in-service training course. All trainees are required to meet same training standards and therefore the same conduct standards should apply to all trainees in attendance in training or while utilizing furnished facilities.

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. Affects only a part or division of local government.
3. State the aspect or service of local government to which this administrative regulation relates. Relates to law enforcement officers employed by the local government or other governmental entities who participate in an in-service law enforcement training course conducted by the Department of Criminal Justice Training.
4. How does this administrative regulation affect the local government or any service it provides? Regulates the conduct of law enforcement officers while attending an in-service law enforcement course, i.e., what conduct is or is not permissible. In addition it prescribes procedures in cases of alleged violations.

JUSTICE CABINET
Department of Criminal Justice Training

503 KAR 3:030. Training charges.

RELATES TO: KRS 15.340
STATUTORY AUTHORITY: KRS 15A.160
NECESSITY AND FUNCTION: KRS 15.340 authorizes the Department of Criminal Justice Training to determine whether certain persons to whom it

offers training or agencies employing such persons must bear any of all costs of training. This regulation prescribes training charges and identifies those who must pay for training.

Section 1. Basic Training. (1) Persons employed full time (regularly working at least forty (40) hours per week) as sworn law enforcement officers by any of the agencies listed below or any full-time employee thereof who is employed to dispatch law enforcement units by means of radio communications or to operate teleprocessing equipment associated with law information network of Kentucky shall be eligible to receive free tuition, free housing at facilities to be provided by the Department of Criminal Justice Training and meals not to exceed the amount set forth in Section 4 of this regulation, while participating in a basic training course conducted by the Department of Criminal Justice Training:

(a) Municipal police departments;
(b) County police departments;
(c) Urban-county police departments;
(d) Public airport authority police departments;
(e) Municipal housing authority police departments;
(f) Department of Kentucky State Police;
(g) University departments of safety;
(h) Sheriffs' departments (bonded sheriffs and deputies; special deputies appointed under KRS 70.045 are not eligible);
(i) Constables.

(2) Persons employed by other agencies who participate in basic training courses, including telecommunications, conducted by the Department of Criminal Justice Training shall, unless other arrangements are previously provided, be required to pay for tuition, lodging and meals according to the schedule set forth in Section 4 of this regulation. Prior to such training the agency requesting training shall enter into a written agreement wherein all specifics of charges shall be set forth. Department of Criminal Justice Training Form 60 which is made a part hereof by reference shall be utilized by the parties for this purpose.

(3) Part-time persons (regularly working less than forty (40) hours weekly) employed by any of the agencies set forth in subsection (1) of this section, whether sworn or unsworn, participating in a basic training course conducted by the Department of Criminal Justice Training shall be eligible for free tuition only (meals and housing not included).

Section 2. In-service Training. (1) Persons from agencies identified in Section 1(1) of this regulation attending in-service training courses conducted by the Department of Criminal Justice Training shall be eligible for free tuition. Trainees attending in-service courses in Richmond may be granted free lodging if facilities are available.

(2) A person may not attend more than two (2) in-service training courses, tuition free, during a calendar year which are conducted by the Department of Criminal Justice Training. This shall not be applicable in instances wherein a single in-service training course is divided into distinctly different weekly segments.

Section 3. Retraining. (1) A person who repeats a training course conducted by the Department of Criminal Justice Training, whether the first course was passed or failed, shall be required to pay appropriate tuition, housing and meals fees as set forth in Section 4 of this regulation. This shall not be applicable if at least three (3) actual years have elapsed between the original course and the repeated course.

(2) Advance payment of fees and costs for retraining shall be made.

(3) A training course that is substituted for a training course that has been failed shall be considered to be retraining for which fees and costs shall be imposed, but shall not be considered as a second course under Section 2(2) of this regulation.

Section 4. Fees. (1) Tuition shall be:

(a) $150 per week per trainee.

(b) Thirty (30) dollars per day per trainee for training of less than one (1) week.

(c) Tuition shall be as follows for training which involves less than one (1) day: four (4) hours or longer - thirty (30) dollars; less than four (4) hours - fifteen (15) dollars.

(2) Housing charges shall be:

(a) Housing charge for accommodations at the dormitory facilities of the Department of Criminal Justice Training is seventy (70) dollars per five (5) day training week (Sunday night through Thursday night).

(b) For other periods, the charge will be calculated at the rate of fourteen (14) dollars per night.

(3) Meal charges shall be:

(a) Meal charges for meals taken at the Eastern Kentucky University Stratton or Powell Cafeterias will be sixty (60) dollars per week. This includes a total of fifteen (15) meals beginning with the evening meal on Sunday and concluding with the noon meal on Friday.

(b) Trainees are restricted to the following amounts for each meal; this also includes trainees who are eligible for free meals: breakfast - three (3) dollars; lunch - four (4) dollars; and dinner - five (5) dollars. Any purchases greater than those listed will require payment by the trainee, of the additional amount.

(4) Other supplemental charges may be imposed as are reasonably required for supplies, materials, etc. and which have been furnished by the Department of Criminal Justice Training. This includes, but is not limited to, ammunition provided by the Department of Criminal Justice Training in a firearms training course.

(5) If a person participates in all of a training course for which training fees (tuition, housing, meals) are payable but fails the course, full training fees are due.

(6) The employing agency of an officer receiving training shall be billed for the total services contracted for (tuition, lodging and meals) though not totally utilized by the trainee. Excepted are cases in which a trainee withdraws from training because of extenuating circumstances such as but not limited to illness, injury or personal tragedy.

(7) All payments due shall be made by a check of the employing agency payable to the Kentucky State Treasurer.

(8) Agencies other than those specified in Section 1(1) of this regulation may be charged tuition and expenses for the providing of

training for their personnel. Agencies requesting such training are required to enter into a written agreement wherein all specifics will be outlined. Unless otherwise specified, all housing and meal charges will be the same as listed in subsections (2) and (3) of this section. Retraining charges will be specified on the same agreement form.

W. MICHAEL TROOP, Secretary
APPROVED BY AGENCY: February 5, 1990
FILED WITH LRC: February 12, 1990 at 3 p.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on March 27, 1990 at 10 a.m. at Room 352 Stratton Building, Kit Carson Drive, Richmond, Kentucky 40475. Individuals interested in attending this hearing shall notify this agency in writing by March 19, 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: A. Jack May, Director, Administrative Division, Department of Criminal Justice Training, Kit Carson Drive, Richmond, Kentucky 40475-3131. (606)622-1023.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: A. Jack May
(1) Type and number of entities affected: Affects approximately 189 cities and counties participating in the Kentucky Law Enforcement Foundation Program Fund, several universities, airport security, sheriffs departments, numerous state agencies with law enforcement duties, coroners, constables, telecommunicators and other agencies which have officers and personnel trained by the Department of Criminal Justice Training.
(a) Direct and indirect costs or savings to those affected: This regulation sets tuition, lodging and meal costs for those agencies required to pay for training conducted by the Department of Criminal Justice Training at $150 per week per trainee, lodging at $70 per week per trainee and meals at Eastern Kentucky University at $60 per week. Tuition, housing and meals are prorated dependent on a time less than one week.
1. First year: See No. 3.
2. Continuing costs or savings: See No. 3.
3. Additional factors increasing or decreasing costs (note any effects upon competition): Costs assessed to agencies utilizing the training services of the Department of Criminal Justice Training depends on whether the agency is chargeable for training costs (discretionary with the Commissioner of DOCJT); whether or not the training is repeat training after an initial failure; and how many trainees there are from a given agency in these categories per year.
(b) Reporting and paperwork requirements: Consists of execution of form contracts and customary procedures.
(2) Effects on the promulgating administrative body: Provides for an orderly and uniform system for charging for services performed by the Department of Criminal Justice Training and establishes same by administrative regulation rather than by internal policy.
(a) Direct and indirect costs or savings: Does not involve an issue of direct and indirect costs or savings. This sets fees and costs.
1. First year: Not applicable.
2. Continuing costs or savings: Not applicable.
3. Additional factors increasing or decreasing costs: Not applicable.
(b) Reporting and paperwork requirements: Consists of preparation of form contracts and customary billing procedures. Procedure is standardized and fairly simple.
(3) Assessment of anticipated effect on state and local revenues: No change in effect on state and local revenue. This merely converts fees and charges schedules from internal policy to administrative regulation. Fees and costs are the same as have been exacted over a period of time.
(4) Assessment of alternative methods; reasons why alternatives were rejected: Alternative methods and amounts of fees and costs were reviewed and evaluated prior to this conversion from internal policy to administrative regulation and a determination made, based upon experience and other factors, not to alter.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None in conflict.
(a) Necessity of proposed regulation if in conflict: Not applicable.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.
(6) Any additional information or comments: The provisions of this proposed administrative regulation have been administered via internal policy. KRS 13A.100 mandates such matters as covered herein be enacted by administrative regulation.
TIERING: Was tiering applied? No. There are not any different classes in the agencies to which this regulation is to apply. Fees and charges must be uniform.

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. Affects only a part or division of the local government.
3. State the aspect or service of local government to which this administrative regulation relates. Relates to law enforcement services including telecommunicators or local government.
4. How does this administrative regulation affect the local government or any service it provides? This regulation affects cities and counties and sheriff's departments which send their police officers and telecommunicators to the Department of Criminal Justice Training for training by requiring these agencies to pay specified fees and costs for retraining in the

event an officer or officers from that agency fails a training course.

LABOR CABINET
Department For Workplace Standards

803 KAR 1:055. Applicability of prevailing wage requirements.

RELATES TO: KRS 337.505 to 337.550
STATUTORY AUTHORITY: KRS 337.520(1)
NECESSITY AND FUNCTION: KRS 337.510(2) requires that all public works construction contracts with public authorities contain a stipulation that not less than the prevailing hourly rate of wages as determined by the Commissioner for the Department of Workplace Standards shall be paid to all laborers, workmen and mechanics performing work under the contract. KRS 337.530(1) provides that all public works contractors and subcontractors shall strictly comply with the prevailing wage requirements. The Commissioner of Workplace Standards is given authority through KRS 337.520(1) to make regulations necessary to carry out the provisions and purposes of the prevailing wage statute and prevent the circumvention or evasion of the statute. The function of this regulation is to set forth the criteria for determining what constitutes performing work under a public works contract and thus makes the prevailing wage requirements applicable.

Section 1. Coverage Criteria. (1) The manufacture or fabrication of construction materials or components by a construction contractor or subcontractor are deemed to be performed under the public works contract if such manufacture or fabrication is performed at the site of the public works project or other adjacent or nearby property used by the contractor or subcontractor.

(2) The "site of the project" is defined as follows:

(a) The "site of the project" is limited to the physical place or places where the construction called for in the contract will remain when work on it has been completed and, as discussed in paragraph (b) of this subsection, other adjacent or nearby property used by the contractor or subcontractor in such construction which can reasonably be said to be included in the "site".

(b) Except as provided in paragraph (c) of this subsection, fabrication plants, mobile factories, batch plants, borrow pits, job headquarters, tool yards, etc., are part of the "site of the project" provided they are dedicated exclusively, or nearly so, to performance of the contract or project, and are so located in proximity to the actual construction location that it would be reasonable to include them.

(c) Not included in the "site of the project" are permanent home offices, branch plant establishments, fabrication plants, and tool yards of a contractor or subcontractor whose locations and continuance in operation are determined wholly without regard to a particular public works contract or project. In addition, fabrication plants, batch plants, borrow pits, job headquarters, tool yards, etc., of a commercial supplier or material person which are established by a supplier of materials for the project before opening of bids and not on the project site, are not included in the "site of the project." Such permanent previously established facilities are not a part of the "site of the project", even where the operations for a period of time may be dedicated exclusively, or nearly so to the performance of a contract.

(3) Transportation of materials on the "site of the project" by employees of contractors or subcontractors for use at the "site of the project" is performing work under the contract and is thus covered by the prevailing wage provisions. Trucking firms engaged to haul materials for use at the "site of the project" from fabrication plants, mobile factories, batch plants, borrow pits, job headquarters, tool yards, etc., which are part of the "site of the project" are deemed to be subcontractors and their employees are accordingly covered by the prevailing wage requirements.

CAROL M. PALMORE, Secretary
APPROVED BY AGENCY: January 19, 1990
FILED WITH LRC: January 26, 1990 at 2 p.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on March 27, 1990, at 10 a.m., at the Kentucky Labor Cabinet, U.S. 127 Building South, Bay 3 Conference Room, Frankfort, Kentucky. Individuals interested in attending this hearings shall notify this agency in writing by March 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. Charles E. McCoy, Kentucky Labor Cabinet, Division of Employment Standards and Mediation, 1049 U.S. 127 South, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Charles E. McCoy
(1) Type and number of entities affected: All contractors and subcontractors performing public works construction by contract with a public authority.
(a) Direct and indirect costs or savings to those affected: None. This regulation sets forth criteria for determining what constitutes performing work under a public works contract thereby making the prevailing wage requirements applicable.
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body: None
(a) Direct and indirect costs or savings: None
1. First year: None
2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: The only alternative to this proposed regulation was to not propose a regulation clarifying what constitutes performing work under a public works contract. This alternative was rejected because in the absence of regulatory guidance, contractors and subcontractors may not know when to pay prevailing wages.

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

(a) Necessity of proposed regulation if in conflict: No conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: No conflict.

(6) Any additional information or comments: There is no additional information or comment.

TIERING: Was tiering applied? No. This proposed regulation applies equally to all contractors and subcontractors who perform construction of public works by contract with any public authority.

REPRINT

COMPILER'S NOTE: The regulation below, recodified from 705 KAR 7:020, was amended and effective on May 1, 1984. However, the amendment failed to appear correctly in the bound volumes of the Kentucky Administrative Regulations Service. This printing of the regulation reflects the amendment which was made in 1984.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Programs

709 KAR 1:020. Testing program.

RELATES TO: KRS 156.070, 156.485
PURSUANT TO: KRS Chapter 13A
NECESSITY AND FUNCTION: To establish the means whereby adults can be tested by official GED testing centers to determine their eligibility for receiving a High School Equivalency Certificate.

Section 1. (1) The GED test shall provide a valid means of measuring the educational achievement of adults who are nonhigh school graduates and of comparing their competency with that of high school graduates. The tests shall be high school level batteries consisting of five (5) comprehensive examinations: English, literature, mathematics, natural science, and social studies.

(2) The GED test shall be administered to:

(a) Any person seventeen (17) years of age or older who has been out of a formal classroom situation for a period of one (1) year before making application, or whose high school class (the class of which he was or would have been a member) has graduated; or

(b) To any person sixteen (16) years of age who has been committed or placed in a state correctional facility, and one (1) of the following:

(c) Who has completed a program of instruction provided by such agencies as the Job Corps and the Postal Service Academy, an apprenticeship program, or other similar programs of instruction for which completion of training is certified by the director of the program and presented to a chief examiner of an official GED center with a request that the subject adult be tested;

(d) Who presents a written request from an employer certifying that the applicant for job opportunity must establish high school equivalency on the basis of GED test scores;

(e) Who presents a written request from a college or university official certifying that the institution will consider accepting the applicant for admission on the basis of GED test scores;

(f) Who presents a written request for testing from a recruiting official for the subject adult who wishes to enter a branch of the Armed Forces for which high school equivalency is a prerequisite; or

(g) Who is a resident of Kentucky.

(3) Official GED testing centers shall be established under contract with the GED Testing Service of the Commission on Accreditation with locations authorized by the State Board of Education. GED testing services for individuals confined to state correctional and health institutions shall be provided by the State Board of Education.

(4) Testing fees shall be established by the State Board of Education at a uniform fee of ten (10) dollars [official GED testing centers]. The State Board of Education shall charge no fee for testing services provided for individuals confined to state correctional and health institutions.

(5) Applicants seeking a high school equivalency certificate must complete the appropriate application form provided for this purpose prior to taking the GED test. This form shall be available upon request from local school superintendents or the State Board of Education. Military personnel shall not be required to complete the application form prior to taking the test; however, the application form must be completed before a high school equivalency certificate will be issued.

(6) If an applicant passes all five (5) tests with a minimum test score of thirty-five (35) but does not attain an average standard score of forty-five (45), he shall be eligible to retake any one (1) or all tests in an attempt to raise the overall standard score to meet the requirements. However, the testing center proctor will recommend which test or tests to be retaken. (Recodified from 705 KAR 7:020, 10-5-84.)

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
Minutes of the February 5, 1990 Meeting

The February meeting of the Administrative Regulation Review Subcommittee was held on Monday, February 5, 1990 at Noon in Room 107. Representative Mark D. O'Brien, Chairman, called the meeting to order, and the secretary called the roll. On motion of Senator Huff, seconded by Representative Layman, the minutes of the January 3, 1990 meeting were approved.

Present February 5, 1990 were:

Members: Representative Mark D. O'Brien, Chairman; Senators Gene Huff; Pat McCuiston; Representatives Ronny Layman; Tom Kerr.

Guests: Cindy Atkins, W. David Shearer, Jr., Matt Wilson, Educational Savings Plan Trust; Richard L. Ross, Board of Pharmacy; Carol McGuire, Mary Romelfanger, Sharon M. Weisenbeck, Board of Nursing; Grant Winston, Attorney General's Office; Don R. McCormick, Pete Pfeiffer, Department of Fish and Wildlife Resources; Ellen Tharpe, Corrections Cabinet; Sandra Pullen, Transportation Cabinet; Gary Bale, Clara DeMoss, Department of Education; Wayne Bates, Ralph Dennis, Lee M. MacCracken, Claude G. Rhorer, Jr., James K. Sharpe, Public Service Commision; Mike Fulkerson, State Racing Commission; Judith G. Walden, Department of Housing, Buildings and Construction; J. William Martin, State Fire Marshal; R. Wayne Jordan, Fire Commission; Mark Cornett, Karen Doyle, Ked Fitzpatrick, Anita Moore, Cabinet for Human Resources; Thomas C. Barnes, Jr., Division of Plumbing; Michael Dudgeon, KAHCF; Jim Pierce, Division of Protection and Advocacy; J. Barnett, SCB; Francis E. Wilson, Sr.; Jane Abell Wilson.

LRC Staff: Susan Wunderlich, Joe Hood, Gregory Karambellas, Donna Pierce, and Carla Arnold.

Press: Tim Weldon, WLEX-TV.

The Administrative Regulation Review Subcommittee met on February 5, 1990, and submits this report:

The Subcommittee determined that the following administrative regulation did not comply with KRS Chapter 13A:

Education and Humanities Cabinet: State Board for Elementary and Secondary Education: Office of School Administration and Finance: School Terms, Attendance and Operation

702 KAR 7:070 (Interscholastic athletic eligibility and requirements; redshirting prohibited.) Representative Layman questioned the proposed amendment that middle school students would be prohibited from playing in high school contact sports. After a lengthy discussion, the Subcommittee approved a motion to attach an objection to this regulation based on the following: (1) in Section 1(3)(a) unbridled discretion is allowed when the granting of a waiver by the local board of education is "permissive". This raises the questions of (a) a lack of standards on which to make the decision; and (b) a possible unconstitutional delegation of decision making authority. (2) Section 2(2)(e) requires that the KHSAA adopt the provisions of this subsection as a part of its by-laws. This seems to imply that the implementation of the regulation doesn't take effect until KHSAA amends it by-laws, an action or procedure not contained in KRS Chapter 13A. (3) Section 3 uses the term "abuses or misuses" in relation to waivers, without defining the terms. The importance of this is in proportion to the penalty provided: "noncompliance with accreditation standards or guilty of willful neglect of duty or breach of contract and shall be remediated in any appropriate manner."

The Subcommittee determined that the following administrative regulations, as amended, complied with KRS Chapter 13A:

Finance and Administration Cabinet: Kentucky Educational Savings Plan Trust

Objections had been raised to these regulations relating to the definitions sections. The agency did not violate KRS Chapter 13A: they are permitted to cross reference the statutory definition in a regulation by KRS 13A.222(4)(d); and are required to have a definitions section in each regulation in which a term is used by KRS 13A.222(4)(e).

Questions had been raised concerning the requirement that a participant have "Kentucky ties" (current or former residence, current employment, by participant, beneficiary or family member of either). The Subcommittee determined that, while there was no requirement for "Kentucky ties" in the statute, there was some evidence that this was the intent when the statute was drafted. The Subcommittee determined to request LRC to refer this issue to the Senate and House Standing Committees on Education for possible legislative action.

The agency submitted a statement explaining its position on objections raised, which statement is attached to the appropriate regulation.

200 KAR 16:020 (Definitions.) This administrative regulation was amended as follows: (1) Section 1(6) was deleted in its entirety because it repeated or summarized statutory language in violation of KRS 13A.222; (2) Section 1(18) was amended to delete the slash and insert the word "or" in order to comply with KRS 13A.222.

200 KAR 16:030 (Eligibility of beneficiary and participant.) This administrative regulation was amended as follows: (1) In Section 2, the words "is less than 15 years old. Either a participant or a beneficiary" were deleted because they repeated statutory language in violation of KRS 13A.222; (2) In Section 4, the words "attained the age of 18. Either a participant or a beneficiary shall have" were deleted because they repeated statutory language in violation of KRS 13A.222.

200 KAR 16:040 (Residency classification for tuition purposes.) The promulgating agency misnumbered the subsections in Section by not including a subsection (3). This was corrected when the regulation was published in the Administrative Register. The administrative regulation was amended to delete Section 1(4) and (5) because they repeated statutory language in violation of KRS 13A.222; Section 2 was deleted in its entirety for the same reason.

200 KAR 16:050 (Substitution of a beneficiary.) This regulation was amended as follows: Section 1(1) - language specifying the fee was deleted because it should not be contained in the definitions section; this

language was inserted in a new Section 2; and remaining sections were renumbered.

200 KAR 16:080 (Benefits payable from the program fund.) This regulation was amended as follows: Section 1(1) - language specifying the fee was deleted because it should not be contained in the definitions section; this language was inserted in a new Section 2; remaining sections were renumbered. An objection had been made to payments to students residing off campus (found in Section 4). Since the intent of the Act was to benefit students, unless such payment is made to students residing off campus the purposes of the Act will be frustrated and students would not receive the full benefit of the investment made on their behalf. If additional questions concerning this policy remain, the relevant statute could be amended to specify such payment.

200 KAR 16:090 (Benefits payable from the endowment fund.) Section 4 was deleted in its entirety because it repeated statutory language in violation of KRS 13A.222.

General Government Cabinet: Board of Pharmacy

201 KAR 2:030 (Reciprocity; temporary license.) This administrative regulation was amended to comply with the drafting requirements of KRS 13A.222. It was also amended to delete Sections 5 through 9 in their entirety. These sections provided for a temporary reciprocity license that could be suspended by action of the Executive Director without a hearing. These provisions violated KRS Chapter 315, which does not provide for a temporary license and which does not permit the suspension of any license without a hearing. It had been stated that, while reciprocity licenses were not specifically provided for in KRS Chapter 315, the board's authority was broad enough to permit the creation of such licenses. However, KRS 315.210 does grant specific authority for such licenses.

Corrections Cabinet: Office of the Secretary

501 KAR 6:020 (Corrections policies and procedures.) This administrative regulation was amended to comply with the drafting requirements of KRS 13A.222.

501 KAR 6:060 (Northpoint Training Center.) This administrative regulation was amended to comply with the drafting requirements of KRS 13A.222.

Education and Humanities Cabinet: State Board for Elementary and Secondary Education: Office of Instruction: Teacher Certification

704 KAR 20:550 (Professional school certificate for college faculty.) In response to the Subcommittee's question that the regulation exceeded statutory authority by allowing local school districts to determine appropriate academic qualifications that would be required of college faculty members' eligibility to teach or be administrators, the agency proposed to amend Section 1(2) by taking out the previous language which allowed that local determination, and inserting in its place: "The faculty member shall hold either a doctoral degree, or a master's degree and documented expertise in the specific teaching or administrative assignment."

Public Protection and Regulation Cabinet: Public Service Commission: Utilities

807 KAR 5:054 (Small power production and cogeneration.) This administrative regulation was amended to comply with KRS 13A.224(7). The federal regulations cited were adopted without change and should not be incorporated by reference. The amendment complied with KRS Chapter 13A by removing language incorporating the federal regulations by reference and by citing them in the "RELATES TO" and "STATUTORY AUTHORITY" sections.

State Racing Commission: Thoroughbred Racing Rules

810 KAR 1:019 (Disciplinary measures.) This administrative regulation was amended to comply with the drafting requirements of KRS 13A.222.

Cabinet for Human Resources: Department for Social Insurance: Food Stamp Program

904 KAR 3:020 (Eligibility requirements.) Section 7(2) was amended to comply with federal requirements. These required the exemption of "Agent Orange payments" from consideration as income.

The Subcommittee determined that the following regulations complied with KRS Chapter 13A:

Finance and Administration Cabinet: Kentucky Educational Savings Plan Trust

200 KAR 16:070 (Payment of refund and rate of return after notice of termination.)

General Government Cabinet: Board of Nursing

201 KAR 20:310 (Faculty for prelicensure registered nurse and practical nurse programs.)

Tourism Cabinet: Department of Fish & Wildlife Resources: Fish

301 KAR 1:146 (Commercial fishing gear.)
301 KAR 1:200 (Seasons and limits for angling.)

Corrections Cabinet: Office of the Secretary

501 KAR 6:030 (Kentucky State Reformatory.)
501 KAR 6:040 (Kentucky State Penitentiary.)

Transportation Cabinet: Department of Vehicle Regulation: Division of Motor Carriers

601 KAR 1:005 (Safety regulations.)
601 KAR 1:140 (U-Drive-It permit application procedures.)
601 KAR 1:145 (Reporting and paying of usage tax pursuant to a U-Drive-It permit.)

Department of Highways: Division of Traffic

603 KAR 5:150 (Encroachment permits.)

Public Protection and Regulation Cabinet: Public Service Commission: Utilities

807 KAR 5:031 (Gas well determinations.)
807 KAR 5:061 (Telephone.)

Department of Housing, Buildings and Construction: Kentucky Building Code

815 KAR 7:020 (Building Code.)

Local Fire Departments

815 KAR 45:015 (Aid to fire departments.)
815 KAR 45:020 (Commission meetings and proceedings.)
815 KAR 45:050 (Requirements for obtaining firefighter's training facility grants.)
815 KAR 45:060 (Survivor benefits death of paid firefighter.)

Cabinet for Human Resources: Department for Medicaid Services: Medicaid Services
907 KAR 1:031 (Payments for home health services.)
907 KAR 1:404 (Incorporation by reference of the independent laboratory services manual.)
907 KAR 1:436 (Incorporation by reference of the hospice services manual.)
907 KAR 1:460 (Coverage and payments for preadmission screening and annual resident review.)

The following regulation was withdrawn at the promulgating agency's request:

Finance and Administration Cabinet: Kentucky Educational Savings Plan Trust
200 KAR 16:060 (Ownership and refund of investment income after partial utilization of benefits.)

The following regulations were deferred at the promulgating agency's request:

General Government Cabinet: Board of Medical Licensure
201 KAR 9:101 (Definitions relating to paramedics.)
201 KAR 9:111 (Application and training course requirements.)
201 KAR 9:121 (Active & inactive status, certification, renewal of certification, reactivation.)
201 KAR 9:136 (Procedure for certification of paramedics from other states; graduate paramedics; issuance of temporary certificates.)
201 KAR 9:141 (Denial, revocation and suspension of certificate.)
201 KAR 9:151 (Contracts for support services; establish a fee schedule; and establish a Paramedic Advisory Committee.)
201 KAR 9:161 (Skills, authorized procedures.)
201 KAR 9:171 (Utilization of services.)
201 KAR 9:175 (Physician assistant; certification and supervision.)
201 KAR 9:180 (Ethical conduct.)

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.)

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.)

Morehead State University: Board of Regents
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.)

Northern Kentucky University: Board of Regents
760 KAR 1:010 (Acquisition and disbursement of funds.)
760 KAR 1:020 (Annual audit.)
760 KAR 1:030 (Purchasing; inventories; sales of surplus property; bidding procedures.)
760 KAR 1:040 (Disposal of property proceeds; title.)
760 KAR 1:050 (Delegation of financial management responsibility.)

University of Kentucky: Board of Regents
765 KAR 1:010 (Delegation of purchasing authority.)
765 KAR 1:020 (Written procurement determinations.)
765 KAR 1:030 (Application to be placed on Official Bid List.)
765 KAR 1:040 (Performance bonds; forms; payments.)
765 KAR 1:050 (Competitive sealed bidding.)
765 KAR 1:060 (Competitively negotiated contracts.)
765 KAR 1:070 (Small purchase procedures.)
765 KAR 1:080 (Noncompetitive negotiations.)
765 KAR 1:090 (Multiple contracts.)
765 KAR 1:100 (Contract modifications.)
765 KAR 1:110 (Termination of contracts.)
765 KAR 1:120 (General and special conditions for bidding.)
765 KAR 1:130 (General food and perishable items purchasing.)
765 KAR 1:140 (Disciplinary action for failure to perform.)
765 KAR 1:150 (Works of art.)

Western Kentucky University: Board of Regents
770 KAR 1:010 (Acquisition and disbursement of funds.)
770 KAR 1:020 (Annual audit.)
770 KAR 1:030 (Purchasing; inventories; title sales of surplus property; bidding procedures.)
770 KAR 1:040 (Disposal of property proceeds.)
770 KAR 1:050 (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 at the January 1990 meeting of the Subcommittee to the following two regulations. The Subcommittee approved those amendments and the regulations were deferred to allow the Subcommittee and staff time to analyze the amendments. At the February 1990 meeting, the regulations were deferred to give the agency time to respond to questions raised by the Subcommittee.
815 KAR 10:030 (Administration and enforcement of the Kentucky Standards of Safety (Fire Prevention Code).)
815 KAR 10:035 (Kentucky Standards of Safety.)

Commission on Fire Protection Personnel Standards and Education: Local Fire Departments
815 KAR 45:035 (Education incentive.)
815 KAR 45:040 (Survivor benefits, death of volunteer firefighter.)

Other Business:

Upon request by the Department of Housing, Buildings and Construction, the Subcommittee agreed to place on the February agenda issues raised by the following plumbing regulations which were objected to at the December meeting. At the February meeting, the agency requested deferral to the March agenda.

Public Protection and Regulation Cabinet: Department of Housing, Buildings and Construction: Division of Building Codes Enforcement: Plumbing

815 KAR 20:020 (Parts or materials list.)

815 KAR 20:130 (House sewers and storm water piping; methods of installation.)

The Subcommittee had no objections to emergency regulations which had been filed.

The Subcommittee adjourned at 12:45 p.m. until March 5, 1990 at 2 p.m.

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.

SPECIAL JOINT COMMITTEE ON CITIES
(Joint Meeting of House & Senate Committees)
January 25, 1990

The House and Senate Committees on Cities met as a special joint committee for the purpose of reviewing proposed administrative regulations which had been referred by the Administrative Regulation Review Subcommittee on January 25, 1990

The Committee determined that the following regulations complied with KRS Chapter 13A and has approved such regulations without objection:

815 KAR 7:080 (Licensing of fire protection sprinkler contractors)
815 KAR 20:070 (Plumbing fixtures)
815 KAR 20:090 (Soil, waste and vent systems)
815 KAR 20:110 (Traps and clean-outs)

CUMULATIVE SUPPLEMENT

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

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201 KAR 14:051	2465	9-2-89
704 KAR 20:550	2465 (See 16 Ky.R.)	

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Replaced	1576	2-3-90
101 KAR 3:010E	1126	11-13-89
Replaced	1580	2-3-90
200 KAR 16:020E	1321	11-28-89
200 KAR 16:030E	1322	11-28-89
200 KAR 16:040E	1323	11-28-89
200 KAR 16:050E	1324	11-28-89
200 KAR 16:060E	1324	11-28-89
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200 KAR 16:070E	1325	11-28-89
200 KAR 16:080E	1326	11-28-89
200 KAR 16:090E	1327	11-28-89
200 KAR 17:010E	116	6-15-89
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Replaced	1234	2-3-90
201 KAR 10:030E	1131	10-31-89
Replaced	1234	2-3-90
201 KAR 10:040E	1133	10-31-89
Replaced	1236	2-3-90
201 KAR 10:060E	1134	10-31-89
Replaced	1237	2-3-90
201 KAR 20:310E	1328	11-20-89
301 KAR 2:044E	531	8-21-89
Replaced	594	11-22-89
301 KAR 2:220E	1134	10-13-89
Replaced	801	1-9-90
401 KAR 30:010E	1832	1-16-90
401 KAR 30:020E	1846	1-16-90
401 KAR 40:060E	1848	1-16-90
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401 KAR 47:190E	1882	1-16-90
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401 KAR 49:060E	1922	1-16-90
401 KAR 49:070E	1925	1-16-90
405 KAR 8:010E	321	8-10-89
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405 KAR 10:200E	732	9-27-89
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501 KAR 6:020E	532	8-21-89
Replaced	435	10-17-89
501 KAR 6:050E	1329	11-17-89
Replaced	1238	2-3-90
501 KAR 6:140E	1330	11-17-89
Replaced	1240	2-3-90
501 KAR 6:150E	1929	1-15-90
502 KAR 45:010E	119	6-28-89
Replaced	536	9-19-89
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502 KAR 45:040E	1931	1-17-90
502 KAR 45:050E	1931	1-17-90
502 KAR 45:060E	1932	1-17-90
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502 KAR 45:120E	1935	1-17-90
502 KAR 45:125E	119	6-28-89
Replaced	286	9-19-89
702 KAR 5:010E	334	7-17-89
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702 KAR 5:030E	334	7-17-89
Replaced	198	10-8-89
702 KAR 5:080E	335	7-17-89
Replaced	200	10-8-89
702 KAR 7:065E	1332	11-17-89
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705 KAR 5:130E	338	8-9-89
709 KAR 1:060E	340	8-9-89
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902 KAR 20:280E	120	6-22-89
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903 KAR 5:270E	124	6-22-89
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904 KAR 2:006E	124	7-14-89
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904 KAR 2:015E	1936	1-18-90
904 KAR 2:016E	736	10-6-89
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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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904 KAR 2:116E	1142	10-26-89
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907 KAR 1:004E	127	7-14-89
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907 KAR 1:012E	135	7-14-89
Replaced	260	9-20-89
Resubmitted	1155	10-26-89
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907 KAR 1:013E	136	7-14-89
Replaced	558	10-18-89
907 KAR 1:022E	138	7-14-89
Replaced	264	9-20-89
907 KAR 1:026E	141	7-14-89
Replaced	267	9-20-89
907 KAR 1:027E	142	7-14-89
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907 KAR 1:031E	144	7-14-89
Replaced	270	9-20-89
907 KAR 1:036E	146	7-14-89
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907 KAR 1:045E	153	7-14-89
Replaced	280	9-20-89
907 KAR 1:055E	154	7-14-89
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907 KAR 1:450E	156	7-14-89
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1 KAR 4:005		
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101 KAR 2:010		
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As Amended	1575	
101 KAR 2:030		
Amended	569	1-12-90
101 KAR 2:040		
Amended	573	1-12-90
101 KAR 2:050		
Amended	575	1-12-90
101 KAR 2:060		
Amended	577	1-12-90
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101 KAR 2:100		
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Withdrawn		11-2-89
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101 KAR 2:110		
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101 KAR 2:130		
Repealed	673	1-12-90
101 KAR 2:150		
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101 KAR 3:006	673	
Withdrawn		11-2-89
Resubmitted	1287	2-3-90
101 KAR 3:010		
Amended	1215	
As Amended	1580	2-3-90
101 KAR 3:030		
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Amended	588	
Withdrawn		11-2-89
Amended	1219	2-3-90
101 KAR 3:050		
Amended	590	
Withdrawn		11-2-89
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103 KAR 43:310	674	
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200 KAR 1:020		
Amended	373	10-11-89
200 KAR 5:020	500	
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200 KAR 16:030	1520	
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Repealed	674	12-6-89
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