CONTINUATION OF SEPTEMBER 1990 ADMINISTRATIVE REGISTER

COMPILER'S NOTE: Due to the volume of regulations received from July 16, 1990 through August 15, 1990, the Administrative Register could not be stapled as one document. Therefore, the September Register is stapled in two documents.

CROSS CONNECTIONS, DEGREE OF HAZARD AND ACCEPTABLE PROTECTION FOR VARIOUS PLUMBING OUTLETS AND CONNECTIONS

Type of Connection	Degree of Hazard			Acceptable Protection				
					Backflow		Back siphonage	
	Severe	Moderate	Minor	Air Gap	Reduced Pressure Device	Double Check Valve Assembly	Pressure Type Vacuum Breaker	Atmospheric Type Vacuum Breaker
I. Connections subject to back pressure from:								
A. Pumps, tanks, and lines handling:								
1. Toxic substance	X			X	X			
2. Nontoxic subst.		X		X	X	X		
B. Boilers								
1. With chemical additives	X			X	X			
2. Without chemical additives		X		X	X	X		
C. Gravity due to obvious site conditions subject to:								
1. Contamination by toxic substances	X			X	X			
2. Contamination by nontoxic subst.		X		X	X	X		
II. Water outlets and connections not subject to back pressure:								
A. Connection to sewer or sewage pump	X			X				
B. Outlet to receptacles containing toxic substances	X			X	X		X	X
C. Outlet to receptacles containing nontoxic substances		X		X	X	X	X	X
D. Outlet into domestic water tanks			X	Each case treated separately				
E. Flush valve toilets	X			X	X		X	X
F. Flush valve urinals		X		X	X		X	X
G. Outlets with hose attachments subject to contamination from:								
1. Toxic substances	X			X	X		X	X
2. Nontoxic subst.		X		X	X	X	X	X
H. Outlets to recirculating cooling tower:								
1. With chemical additives	X			X	X			
2. Without chemical additives		X		X	X	X		

APPLICATION CHART

TYPE AND PRESSURE	DESCRIPTION	INSTALLED AT	EXAMPLES OF INSTALLATIONS	APPLICABLE STANDARDS
Reduced Pressure Principle Backflow Preventer For high hazard cross connections.	Two independent check valves with intermediate relief valve. Supplied with shut-off valves and ball type test cocks.	All cross connections subject to backpressure or back siphonage where there is a high potential health hazard from contamination. Continuous pressure.	Main Supply Lines Commercial Boilers Cooling Towers Hospital Equipment Processing Tanks Laboratory Equipment Waste Digesters Car Wash Sewerage Treatment	A.S.S.E. No. 1013 A.W.W.A. C506 FCCCHR of U.S.C. CSA B.64.4 Sizes 3/4 " - 10"

(A) Double Check Valve Assembly For low hazard cross connections.	Two independent check valves. Supplied with shutoff valves and ball type test cocks.	All cross connections subject to back pressure where there is a low potential health hazard or nuisance. Continuous pressure.	Main Supply Lines Food Cookers Tanks and Vats Lawn Sprinklers Fire Sprinkler Lines Commercial Pools	N O N T O X I C	A.S.S.E. No. 1015 A.W.W.A. C506 FCCCHR of U.S.C. CSA B.64.5 Sizes 3/4" - 10"
(B) Dual Check Valve Backflow Preventer For low hazard applications.	Two independent check valves. Checks are removable for testing.	Cross connections where there is a low potential health hazard and moderate flow requirements.	Post ground hydrants.		A.S.S.E. No. 1024 Sizes 3/4" & 1"
(A) Backflow Preventer with Intermediate Atmospheric Vent For moderate hazard cross connections in small pipe sizes.	Two independent check valves with intermediate vacuum breaker and relief valve.	Cross connections subject to back pressure or back siphonage where there is a moderate health hazard. Continuous pressure.	Boilers (Small) Cooling Towers (Small) Dairy Equipment Residential		A.S.S.E. No. 1012 CSA B.64.3 Sizes 1/2" & 3/4"
		Pump outlet to prevent backflow to carbon dioxide gas and carbonated water into the water supply system to beverage machines.	Postmix Carbonated Beverage Machine		Special Approvals
(B) Laboratory Faucet and Double Check Valve with Intermediate Vacuum Breaker In small pipe sizes for moderate to low hazard.	Two independent check valves with intermediate vacuum breaker and relief vent.	Cross connection subject to back pressure or back siphonage where there is a moderate to low health hazard.	Laboratory Faucets and Pipe Lines Barber Shop and Beauty Parlor Sinks		A.S.S.E. No. 1035 (N-LF9)
(A) Atmospheric Vacuum Breakers For moderate to high hazard cross connections.	Single float and disc with large atmospheric port.	Cross connections not subject to backpressure or continuous pressure. Install at least 6" above fixture rim. Protection against back siphonage only.	Process Tanks Dishwashers Soap Dispensers Washing Machines Lawn Sprinklers		A.S.S.E. No. 1001 ANSI.A112.1.1 CSA B.64.1.1 FCCCHR of U.S.C. Sizes 1/4" - 3"
(B) Antisiphon Pressure Breakers For moderate to high hazard cross connections.	Spring loaded single float and disc with independent 1st check. Supplied with shutoff valves and ball type test cocks.	This valve is designed for installation in a continuous pressure potable water supply system 12" above the overflow level of the system being supplied. Protection against back siphonage only.	Laboratory Equipment Cooling Towers Comm. Laundry Machines Swimming Pools Commercial Plating Tanks Lg. Total & Urinal Facilities Degreasers, Photo Tanks Livestock Water Systems Lawn Sprinklers		A.S.S.E. No. 1020 CSA B.64.1.2 FCCCHR of U.S.C. Sizes 1/2" - 2"
(C) Hose Connection Vacuum Breakers For residential and industrial hose supply outlets.	Single check with atmospheric vacuum breaker vent.	Install directly on hose bibs, service sinks and wall hydrants. Not for continuous pressure.	Hose Bibs Service Sinks Hydrants		A.S.S.E. No. 1011 CSA B.64.2 Size 3/4" Hose

Section 3. Water Required. (1) Every building equipped with plumbing fixtures and used for habitation or occupancy shall be equipped with a supply of potable water.

(2) In buildings used as residences or buildings in which people assemble or are employed, both hot and cold water shall be supplied.

Section 4. Water Service. (1) The water service piping to any building shall be not less than three-fourths (3/4) inch nominal pipe size but shall be of sufficient size to permit a continuous and ample flow of water to all fixtures on all floors at all times.

(2) The underground water service pipe from the main or water supply system to the water distribution system shall not be less than five (5) feet apart horizontally from the house sewer and shall be separated by undisturbed or compacted earth except they can be placed in the same trench provided:

(a) The bottom of the water service pipe at all points shall be at least eighteen (18) inches above the top of the sewer at its highest point.

(b) The water service pipe shall be placed on a solid shelf excavated at one (1) side of the common trench.

(c) The number of joints in the water service pipe shall be kept to a minimum.

Section 5. Distribution. (1) The water supply shall be distributed through a piping system entirely independent of any other piping system.

(2) Piping which has been used for any other purpose than conveying potable water shall not be used for conveying potable water.

(3) Nonpotable water may be used for flushing water closets and urinals, provided such water shall be piped in an independent system.

(a) When a dual water distribution system is used, the nonpotable water supply shall be durably and adequately identified by color markings and metal tags, or other appropriate method as may be approved by the governing authority. Each outlet on the nonpotable water distribution system which might be used for drinking or domestic purposes shall be permanently posted: DANGER - UNSAFE WATER. Each branch, fitting or valve shall be identified by the word - "NONPOTABLE WATER" either by signs or brass tags that are permanently affixed to the pipe, fittings, valves, etc. These identification markings shall not be concealed. Their maintenance shall be the responsibility of the owner.

(4) Any backflow device or cross-connection control device shall be approved by the department.

(5) Combination stop and waste valves, cocks, or hydrants shall not be installed in the underground water distribution system without the installation of an approved backflow preventer.

(6) No private water supply shall be interconnected with any public water supply.

(7) Water used for cooling of equipment or in other processes shall not be returned to the potable water system. Such water shall be discharged into a drainage system through an air gap, or may be used for nonpotable purposes on written approval of the plumbing official.

Section 6. Water Supply to Fixtures. Plumbing fixtures shall be provided with a sufficient supply of water for flushing to keep them in a sanitary condition. Every water closet or pedestal urinal shall be flushed by means of an approved tank or flush valve. The tank or valves shall furnish at least a sufficient amount of water to thoroughly cleanse the surface area of water closets, urinals or similar fixtures. When a water closet, urinal, or similar fixture is supplied directly from the water supply system through a flushometer or other valve, such valves shall be set above the fixture in a manner so as to prevent any possibility of polluting the potable water supply by back siphonage. All such fixtures shall have a vacuum breaker. Plumbing fixtures, devices or appurtenances shall be installed in a manner that **shall** [will] prevent any possibility of a cross connection between the potable water supply system, drainage system or other water system.

Section 7. Connections to Boilers. Potable water connections to boiler feed water systems in which boiler conditioning chemicals are introduced shall be made through an air gap, or provided with a reduced pressure principle backflow preventer located in the potable water line before the point where such chemicals are introduced. Boilers shall be equipped with a check valve in the cold water supply to the boiler.

Section 8. Water Supply to Drinking Fountains. The orifice of a drinking fountain shall be provided with a protective cowl to prevent any contamination of the potable water supply system.

Section 9. Sizing of Water Supply Piping. (1) The minimum size water service from the property line to the water heater shall be three-fourths (3/4) inch. The hot and cold water piping shall extend three-fourths (3/4) inch in size to the first fixture branch. No two and one-half (2 1/2) inch fixture branches are supplied from any one-half (1/2) inch pipe. (EXCEPTION: A combination of two (2) of the following fixtures may be connected utilizing the one-half (1/2) inch branch: a flush tank water closet, a lavatory or drinking fountain.)

(2) The following schedule shall be used for sizing the water supply piping to fixtures. The branch pipe to any fixture shall terminate not more than thirty (30) inches from the point of connection to the fixture and in every instance shall be brought to the floor or wall adjacent to the fixture. No concealed water branch pipe shall be less than one-half (1/2) inch nominal pipe size.

Fixture Branches	Nominal Pipe Size (Inches)
Bath tubs	1/2
Combination sink and tray	1/2
Cuspidor	1/2
Drinking fountain	1/2
Dishwasher (domestic)	1/2
Kitchen sink (res.)	1/2
Kitchen sink (com.	1/2 or 3/4 as required
Lavatory	1/2
Laundry tray	1/2
Sinks (service, slop)	1/2

Sinks flushing rim	3/4
Urinal (flush tank)	1/2
Urinal (direct flush type)	1/2 or 3/4 as required
Water closet (tank type)	1/2
Water closet (flush valve type	1
Hot water boilers	3/4
Hose bibs	1/2
Wall hydrant	1/2
Domestic clothes washer	1/2
Shower (single head)	3/4

(3) Water hammer. In all building supply systems in which devices or appurtenances are installed utilizing quick acting valves that cause noises due to water hammer, protective devices such as air chambers or approved mechanical shock absorbers shall be installed as close as possible to the quick acting valve causing the water hammer.

(a) Where mechanical shock absorbers are installed, they shall be in an accessible place.

(b) Where mechanical devices are used, the manufactures specifications shall be followed as to location and method of installation.

Section 10. Water Supply Pipes and Fittings, Materials. Water supply piping for a potable water system shall be of galvanized wrought iron, galvanized steel, brass, Types K, L, and M copper, cast iron, Types R-K, R-L, and R-M brass tubing, standard high frequency welded tubing conforming to ASTM B-586-73, fusion welded copper tubing conforming to ASTM B-447-72 and ASTM B-251, DWV welded brass tubing conforming to ASTM B-587-73, seamless stainless steel tubing, Grade H conforming to ASTM A-268-68, filament-wound reinforced thermosetting resin pipe conforming to ASTM D-2996 (red thread for cold water use and silver and green thread for hot and cold). Polyethylene (PE) plastic pipe conforming to ASTM D-2239-69, copper tubing size PE conforming to ASTM D-2737 for water service only if installed with compression couplings. Poly(vinyl chloride) (PVC) plastic pipe conforming to ASTM D-1785-69, Chlorinated Poly(vinyl chloride) (CPVC) plastic pipe conforming to ASTM D-2846-70, Poly(vinyl chloride) (PVC) standard dimensional ratio (SDR) 21 and (SDR) 26 conforming to ASTM D-2241-84, polybutylene (PB) plastic pipe conforming to ASTM-D-3309-85b with brass, copper or celcon fittings, Quicktite connection using a celcon asetal copolymer, polybutylene cone and stainless steel ring, plastic pipe and fittings shall bear the NSF seal of approval. (EXCEPTION: Polybutylene pipe utilizing insert fittings of brass, copper or celcon shall use only copper clamping rings. [Its use between the diverter spout of a tub and the shower nozzle is prohibited.]) Polybutylene hot and cold water connectors to lavatories, sinks and water closets shall conform to ASTM-D-3309-85b, and polybutylene plastic pipe conforming to ASTM 2662 for cold water applications only. Fittings shall be brass, copper or approved plastic or galvanized cast iron or galvanized malleable iron. Piping or fittings that have been used for other purposes shall not be used for the water distribution system. All joints in the water supply system shall be made of screw, solder, or plastic joints. Cast iron water pipe joints may be caulked, screwed, or machine drawn. When Type M copper pipe, Type R-M brass tubing, standard high frequency welded tubing or stainless steel tubing is placed within a concrete floor or when it passes through a concrete floor it shall be wrapped with an approved material that will permit expansion or contraction. In no instance shall Polyethylene, PVC or CPVC be used below ground under any house or building (refer also to 815 KAR 20:060 and 815 KAR 20:073).

Section 11. Temperature and Pressure Control Devices for Shower Installations. Temperature and pressure control devices shall be installed on all shower installations that will maintain an even temperature and pressure and shall [will] provide nonscald protection. Such devices shall be installed on all installations other than in homes or apartment complexes.

Section 12. Water Supply Control. (1) A main shutoff valve shall be provided near the curb, in or near the meter box or property line on the water service pipe. In addition, a main supply control valve shall be placed inside a foundation wall. The main supply control valve shall be accessible and provided with a drip or drain valve. A pit or similar type installation is prohibited for a potable water supply shutoff valve.

(2) Pressure on gravity tanks shall have their supply lines valved at or near their source.

(3) Each family unit in a two (2) family or multifamily dwelling shall have each family unit controlled by an arrangement of shutoff valves which will permit each unit to be shutoff without interfering with the cold water supply to any other family unit or portion of the building.

(4) In all buildings other than dwellings, shutoff valves shall be installed which permit the water supply to each piece of equipment to be isolated without interference with the supply to other equipment.

(5) Each fixture or group of bath fixtures shall be valved and each lawn sprinkler opening shall be valved. In residential construction all fixtures except bathtub and showers shall be valved individually or in lieu each group of fixtures shall be valved.

(6) A group of fixtures or fixture group shall mean two (2) or more fixtures adjacent to or near each other in the same room or back to back on a common wall.

(7) The cold water branch to each hot water storage tank or water heater shall be provided with a shutoff valve located near the equipment and only serving this equipment.

Section 13. Water Supply Protection. All concealed water pipes, storage tanks, cisterns, and all exposed pipes or tanks subject to freezing temperatures shall be protected against freezing. Water services shall be installed at least thirty (30) inches in depth.

Section 14. Temperature and Pressure Relief Devices for Water Heaters. Temperature and pressure relief devices shall be installed on all water heaters on the hot water side not more than three (3) inches from the top of the heater. Temperature and pressure relief devices shall be of a type approved by the department. When a water heater is installed in a location that has a floor drain, the discharge from the relief device shall be piped to within two (2) inches of the floor; when a water heater is

installed in a location that does not have a floor drain, the discharge from the relief device shall be piped to the outside of the building with an ell turned down and piped to within four (4) inches of the surface of the ground. The relief device may also discharge through an air gap to a sump basin, service sink, open receptacle or any other point of discharge in which equivalent safety is provided as approved by the Division of Plumbing. Relief devices shall be installed on a pneumatic water system (see Section 17).

Section 15. Protection of a Private Water Supply or Source. Private water supplies or sources shall be protected from pollution in a manner approved by the department. Such approval shall be obtained before an installation is made.

Section 16. Domestic Solar Water Heaters. Domestic solar water heaters may have a "single wall heat exchanger" provided the solar panel and the water heater exchanger use a nontoxic liquid such as propylene glycol or equal, and that the heat exchanger is pretested by the manufacturer to 450 PSI and that the water heater has a warning label advising that a nontoxic heat exchanger fluid shall be used at all times and that a pressure relief valve is installed at the highest point in the solar panel.

Section 17. Domestic Water Heater Preheating Device. A domestic water heater preheating device may be used and connected with the high pressure line from the compressor of a domestic home air conditioner or heat pump water heater. Double wall heat-exchangers with two (2) separate thicknesses separating the heat exchange fluid (other than potable water) from the potable water supply shall be provided. The water inlet to the heat exchange vessel shall be provided with a check valve, and adjacent to, and at the outlet side of the check valve, an approved pressure relief valve set to relieve at five (5) PSI above the maximum water pressure at the point of installation shall be provided if the heat exchange units contain more than twenty (20) pounds of refrigerants. This device shall be equipped with a temperature limit control that would actuate a pump that would circulate hot water from the water heater through the preheater device. Condensate drain water shall be piped in accordance to the plumbing code and in no instance shall it be permitted to drain into crawl space, or into a sewer or vent stack, or be installed in areas subject to freezing. If a drain is not available or if a drain is located above the vent, a condensate pump shall be utilized.

Section 18. Tanks and Vats, below Rim Supply. Tanks and vats with potable water supply below the rim shall be subject to the following requirements:

(1) Where a potable water outlet terminates below the rim of a tank or vat and the tank or vat has an overflow of diameter not less than given in the following table, sizes of overflow pipes for water supply tanks, the overflow pipe shall be provided with an air gap as close to the tank as possible.

SIZES FOR OVERFLOW PIPES FOR WATER SUPPLY TANKS

Maximum capacity of water supply line to tank	Diameter of over-flow pipe (inches ID)	Maximum capacity of water supply line to tank	Diameter of over-flow pipe (inches ID)
0- 50 gpm	2	400- 700 gpm	5
50-150 gpm	2 1/2	700-1000 gpm	6
150-200 gpm	3	Over 1000 gpm	8

(2) The potable water outlet to the tank or vat shall terminate a distance not less than one and one-half (1 1/2) times the height to which water can rise in the tank above the top of the overflow. This level shall be established at the maximum flow rate of the supply to the tank or vat, and with all outlets, except the air gap overflow outlet closed.

(3) The distance from the outlet to the high water level shall be measured from the critical point of the potable water supply outlet.

Section 19. Water Distribution for Fan Coil Units. When a domestic water heater is used for heating purposes through a fan coil medium, its temperature shall not exceed 140 degrees Fahrenheit. It shall utilize not less than three-fourths (3/4) inch Type M copper in its piping and its run shall not exceed 140 feet between the water heater and the heating unit (relates to 815 KAR 20:070).

Section 20. Fire Protection Systems. Fire protection systems using water from the potable water distribution system inside of buildings present special cross-connection prevention problems that require the use of protective devices. The devices used to connect such situations shall be of the double check valve assembly as outlined in part 2 or 3 of the application chart.

Section 21. Water Distribution and Connections to Mobile Homes. (1) An adequate and safe water supply shall be provided to each mobile home conforming to the regulations of the department.

(2) All materials, including pipes and fittings used for connections shall conform with the other sections of this code.

(3) An individual water connection shall be provided at an appropriate location for each mobile home space. The connection shall consist of a riser terminating at least four (4) inches above the ground with two and three-fourths (2 3/4) inch valve outlets with screw connection, one (1) for the mobile home water system and the other for lawn watering and fire control. The ground surface around the riser pipe shall be graded so as to divert surface drainage. The riser pipe shall be encased in an eight (8) inch vitrified clay pipe or equal with the intervening space filled with an insulating material to protect it from freezing. An insulated cover shall be provided which shall encase both valve outlets but not prevent connection to the mobile home during freezing weather. A shutoff valve may be placed below the frost depth on the water service line, but in no instance shall this valve be a stop-and-waste cock.

Section 22. Conservation of Water (refer to 815 KAR 20:070).

CHARLES A. COTTON, Commissioner
THEODORE T. COLLEY, Secretary
APPROVED BY AGENCY: May 10, 1990
FILED WITH LRC: May 11, 1990 at 1 p.m.

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

815 KAR 20:130. House sewers and storm water piping; methods of installation.

RELATES TO: KRS Chapter 318
STATUTORY AUTHORITY: KRS 13A.120, 318.130
NECESSITY AND FUNCTION: The department is directed by KRS 318.130 through the State Plumbing Code Committee to adopt and put into effect a State Plumbing Code. This regulation relates to outlining the materials that may be used in the construction of house sewers, storm water piping as well as the methods of installation. This amendment approves a new type of material for house sewers or combined sewers in Section 7 of this regulation and allows the use of plastic pipe for storm water up to forty-five (45) feet from the base through the terminus through the roof in Section 23 of this regulation.

Section 1. Independent System. The drainage and plumbing system of each new building and of new work installed in an existing building shall be separate from, and independent of, that of any other building except as provided below, and every building shall have an independent connection with either a public or private sewer or sewer system.

Section 2. Exception. Where a building stands in the rear of another building or on an interior lot, and a sewer connection cannot be made available to the rear building through an adjoining alley, court, yard or driveway, the sewer from the front building may be extended to the rear building and it **shall** [will] be considered as one (1) sewer. This exception **shall** [does] not apply to corner lots where a sewer connection is available from the street or alley **or** [nor] to a new or existing building which abuts a street or alley.

Section 3. Connection with Private Sewage Disposal System. When a sewer is not available, the house drain from a building shall connect with an approved private sewage disposal system.

Section 4. Excavations. All excavations made for the installations of a house sewer shall be open trench work. All such trenches shall be kept open until the piping has been inspected, [and/or] tested and approved.

Section 5. Depth of Sewer at the Property Line. (1) Where possible the sewer at the property line shall be at a sufficient depth to properly serve any plumbing connection that may be installed in the basement of any building [unless restricted by another's authority].

(2) House sewers shall be laid on a grade of not less than one-eighth (1/8) inch nor more than one-fourth (1/4) inch per foot. All sewers **shall** [must] have at least an eighteen (18) inch cover. Sewer piping **installed** under property subject to vehicular traffic (e.g., driveways, parking lots and similar locations [a superimposed load condition] shall have at least three (3) feet cover unless constructed of cast iron piping. Unless there is a three (3) foot cover provided, other piping shall be encased in a minimum of six (6) inches of concrete on all sides and the top. Sewers shall be backfilled by hand and tamped six (6) inches above the piping, or in lieu thereof may be filled with six (6) inches grillage above the piping. All joints in cast iron and vitrified clay pipe shall be made in a manner to conform to other sections of this code.

[(3) For purposes of this section, "superimposed load" means to lay over, put on, stack over or subject to vehicular traffic.]

Section 6. New House Sewer Connections. House sewers installed where a private sewerage system has been discarded may connect to the house drain, provided in the opinion of the department the existing plumbing system meets this code or a previous one.

Section 7. Materials for House Sewers. House sewers or combined sewers, beginning two (2) feet outside the foundation wall of a building shall be made of either extra heavy cast iron pipe, service weight cast iron, aluminum, vitrified clay, concrete, PVC or ABS plastic pipe schedules 40 and 80 and cellular core PVC conforming to ASTM F-891, truss pipe and extra heavy SDR 35 pipe and Type PS-46, Poly(Vinyl Chloride) (PVC) in sizes four (4) inches through fifteen (15) inches conforming to ASTM F 789-82 and PVC ribbed pipe conforming to ASTM 795.

Section 8. Material for Storm Sewers Inside Buildings. Material for storm sewers inside of buildings to a point two (2) feet outside a building in sizes eight (8) inches and smaller shall be cast iron pipe, aluminum or Schedule 40 ABS or PVC DWV pipe. Storm sewers in sizes of ten (10) inches and larger may be either cast iron, aluminum, vitrified clay or concrete conforming to appropriate commercial standards with approved joints.

Section 9. Change of Direction. Change in direction of a sewer shall be made with long curves, one-eighth (1/8) bends or Y's.

Section 10. Size of House Sewers and Horizontal Branches. The minimum size of a house sewer shall not be less than four (4) inches nor less than that of the house drain. House sewers receiving branches shall be sized in the same manner as house drains (see 815 KAR 20:090).

Section 11. Size of Storm Systems. The required sizes of storm sewers shall be determined on the basis of the total drained areas in horizontal projection in accordance with the following table. No storm sewer shall be laid parallel to or within two (2) feet of any bearing wall. The storm sewer shall be laid at a sufficient depth to protect it from freezing.

Diameter of pipe - inches	Maximum drained roof area square feet*	
	Slope 1/8 in. fall to 1 ft.	Slope 1/4 in. fall to 1 ft.
3		1,160
4	1,880	2,650
5	3,340	4,720
6	5,350	7,550
8	11,500	16,300
10	20,700	29,200
12	33,300	47,000
15	59,500	84,000

*The calculations in this table are based on a rate of rainfall of four (4) inches per hour.

Section 12. Combined Storm and Sanitary Sewer System. Whenever a combined sewer system is used, the required size of the house drain or house sewer shall be determined by multiplying the total number of fixture units carried by the drain or sewer by the conversion factor corresponding to the drained area and the total fixture units, adding the product to the drained area and applying the sum of the preceding table for storm water sewers. No combined house drain or house sewer shall be less than five (5) inches in diameter, and no combined house drain or house sewer shall be smaller in size than that required for the same number of fixture units or for the same roof area in separate systems.

CONVERSION FACTORS FOR COMBINED STORM AND SANITARY SYSTEM

Number of fixture units on sanitary system

Drained roof area in square feet	Up to 6	7 to 18	19 to 36	37 to 60	61 to 96	97 to 144	145 to 216	217 to 324
Up to 120	180	105	60	45	30	22	18	15
121 to 240	160	98	57	43	29	21	17.6	14.7
241 to 480	120	75	50	39	27	20	16.9	14.3
481 to 720	75	62	42	35	24	18	15.4	13.2
721 to 1,080	54	42	33	29	20	15	13.6	12.1
1,081 to 1,620	30	18	16	15	12	11.5	11.1	10.4
1,621 to 2,430	15	12	11	10.5	9.1	8.8	8.6	8.3
2,431 to 3,645	7.5	7.2	7.0	6.9	6.6	6.5	6.4	6.3
3,646 to 5,460	2.0	2.4	3.0	3.3	4.1	4.2	4.3	4.4
5,461 to 8,190	0	2.0	2.1	2.2	2.3	2.4	2.5	2.6
8,191 to 12,285	0	0	2.0	2.1	2.1	2.2	2.3	2.3
12,286 to 18,420	0	0	0	2.1	2.1	2.1	2.2	2.2
18,421 to 27,630	0	0	0	0	2.0	2.1	2.2	2.2
27,631 to 40,945	0	0	0	0	0	2.0	2.1	2.2
40,946 to 61,520	0	0	0	0	0	0	2.0	2.1
Over 61,520	0	0	0	0	0	0	0	2.0

Number of fixture units on sanitary system

Drained roof area in square feet	325 to 486	487 to 732	733 to 1,098	1,099 to 1,644	1,645 to 2,466	2,467 to 3,702	3,703 to 5,556	Over 5,556
Up to 120	12	10.2	9.2	8.4	8.2	8.0	7.9	7.8
121 to 240	11.8	9.9	9.1	8.3	8.1	8.0	7.9	7.8
241 to 480	11.5	9.7	8.8	8.2	8.0	7.9	7.8	7.7
481 to 720	10.8	9.2	8.6	8.1	7.9	7.9	7.8	7.7
721 to 1,080	10.1	8.7	8.3	8.0	7.8	7.8	7.7	7.6
1,081 to 1,620	9.8	8.4	8.1	7.9	7.7	7.7	7.6	7.5
1,621 to 2,430	8.0	7.9	7.8	7.7	7.6	7.5	7.4	7.4
2,431 to 3,645	6.2	6.3	6.4	6.4	6.8	7.0	7.1	7.2
3,646 to 5,460	4.5	4.7	5.0	5.1	6.1	6.4	6.9	6.9
5,461 to 8,190	2.8	3.2	3.7	4.6	5.0	5.6	6.2	6.4
8,191 to 12,285	2.4	2.5	2.6	2.7	3.5	4.5	5.2	5.6
12,286 to 18,420	2.3	2.3	2.4	2.4	2.6	3.2	4.2	4.7
18,421 to 27,630	2.2	2.3	2.3	2.3	2.4	2.5	2.8	3.1
27,631 to 40,945	2.2	2.2	2.2	2.2	2.2	2.2	2.3	2.4
40,946 to 61,520	2.1	2.1	2.1	2.1	2.1	2.1	2.1	2.1
Over 61,520	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0

Section 13. House Sewer in Undisturbed or Made Ground. House sewers laid in undisturbed ground **shall** [must] be laid on at least four (4) inches of pea gravel, sand or other approved grillage. House sewers laid in made or filled ground shall be embedded to the lower quadrant with at least a four (4) inch concrete pad below the invert, or other support that may be approved by the department. Supports in filled or made ground shall be on ten (10) feet centers to a solid footing, either undisturbed earth or rock. House sewers constructed of flexible thermoplastic sewer piping **shall** [must] be installed with at least six (6) inches of gravel on the bottom, top and sides of the piping.

Section 14. Storm Sewers in Undisturbed or Made Ground. Storm sewers laid in undisturbed ground **shall** [will] not require grillage. Storm sewers laid in made or filled grounds shall be embedded to the lower quadrant with at least a four (4) inch concrete pad below the invert or other support that may be approved by the department. Supports in filled or made ground shall be on ten (10) feet centers to a solid footing, either undisturbed earth or rock.

Section 15. Drainage Below Sewer Level. In buildings, in which the whole or part of the house drain and plumbing system thereof lies below the level of the main sewer, sewage and waste shall be lifted by an approved artificial means and discharged into the house sewer.

Section 16. Drainage Below Sewer Level (Residential). In homes where the house sewer level is above the basement floor, waste water shall be lifted by means of an approved sump pump. The sump pit shall be constructed of either poured or precast concrete, approved fiberglass or polyethylene material with a tight fitting cover. The sump pit shall be provided with a two (2) inch vent which may also act as a waste and vent for a laundry tray. The pump discharge piping shall discharge into a two (2) inch waste pipe extended inside the building to a height at least twelve (12) inches above the outside grade. The sump well shall be provided with a tight-fitting concrete cover. On the outside of the building this waste piping shall connect into a four (4) inch by two (2) inch sanitary tee which shall connect into a four (4) inch P trap and then into the sanitary sewer. The four (4) inch by two (2) inch sanitary tee shall be extended at least two (2) inches above the finished grade and shall be provided with a ventilated cap.

Section 17. Sumps and Receiving Tanks. All subsoil drains shall discharge into an air tight sump or receiving tank so located as to receive the sewage by gravity. The sewage shall be lifted and discharged into the house sewer by a pump, ejector or any equally efficient method. Such sumps shall automatically discharge.

Section 18. Ejectors, Vented. All ejectors shall be vented with a three (3) inch vent. Fixtures or appliances connected thereto shall be vented in accordance with other sections of this code.

Section 19. Ejector Power: Motors, Compressors, Etc. All motors, air compressors and air tanks shall be located where they are open for inspection and repair at all times. The air tanks shall be proportioned so as to furnish sufficient air at suitable pressure to the ejector to completely empty the sump or storage tank with the compressor not operating. The end pressure in the tank shall be not less than two (2) pounds for each foot of height through which sewage is raised.

Section 20. Ejectors for Subsoil Drainage. When subsoil catch basins are installed below the sewer level, automatic ejectors, or an approved type, may be used. Such ejectors or any device raising subsoil water shall discharge into a properly trapped fixture or into a storm-water drain.

Section 21. Drainage of Yards, Areas and Roofs. All roofs, paved areas, courts, and courtyards shall be drained into a storm water system or a combined sewerage system, but not into sewers intended for sewage only. When drains are connected to a combined sewerage system, they shall be trapped. If roof leaders, conductors, or gutter openings are located more than ten (10) feet from a window, scuttle, or air shaft, a trap shall not be required. Traps shall be set below the frost line or on the inside of the building. Where there is a storm or combined sewer available, it may discharge into a drainage area unless **prohibited by the local health department or sewer district** [otherwise prohibited by the proper authorities]. When such drains are not connected to a combined sewer a trap **shall not be** [is not] required.

Section 22. Size of Rain Water Leader. No inside leader shall be less size than the following:

Area of Roof (In Square Feet)	Leader, Diameter (Inches)
Up to 90	1 1/2
91 to 270	2
271 to 810	3
811 to 1,800	3 1/2
1,801 to 3,600	4
3,601 to 5,500	5
5,501 to 9,600	6

Section 23. Inside Conductors or Roof Leaders. When conductors and roof leaders are placed within the walls of any building, or in an interior court or ventilating pipe shaft, they shall be constructed of cast iron pipe, galvanized wrought iron, galvanized steel, copper, aluminum, schedule 40 ABS/PVC DMV pipe or reinforced thermosetting resin pipe conforming to ASTM D-2996 (red and silver thread). The vertical distance of PVC or ABS conductors shall not exceed **forty-five (45)** [thirty (30)] feet from the base through the terminus through the roof. **Provisions shall be made for the expansion and contraction of plastic pipe.**

Section 24. Outside Conductors. When outside sheet metal conductors or downspouts are connected to a house drain, they shall be connected by means of a cast iron pipe extending vertically at least one (1) foot above the grade line. Along public driveways, without side walks, they shall be placed in niches in the

walls, protected by wheel guards, or enter the building through the wall at a forty-five (45) degree slope at least twelve (12) inches above the grade.

Section 25. Defective Conductor Pipes. When an existing sheet metal conductor pipe within the walls of any building becomes defective, such a conductor shall be replaced by one which conforms to this code.

Section 26. Vent Connections with Conductors Prohibited. A conductor pipe shall not be used as a soil, waste or vent pipe, nor shall any soil, waste, or vent pipe be used as a conductor.

Section 27. Overflow Pipes. Overflow pipes from cisterns, supply tanks, expansion tanks, or drip pans shall connect only indirectly with any house sewer, house drain, soil or waste pipe.

Section 28. Subsoil Drains, Below Sewer Level. Subsoil drains shall discharge into a sump or receiving tank. It shall be automatically lifted and discharged into the storm drainage system or upon the ground outside the building that it serves.

CHARLES A. COTTON, Commissioner
THEODORE T. COLLEY, Secretary
APPROVED BY AGENCY: May 9, 1990
FILED WITH LRC: May 11, 1990 at 1 p.m.

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

815 KAR 35:030. Kentucky certification of electrical contractors.

RELATES TO: KRS 227.450 through 227.500
STATUTORY AUTHORITY: House Bill 76
NECESSITY AND FUNCTION: House Bill 76 of the 1990 Session of the General Assembly requires that the Department of Housing, Buildings and Construction select and approve an examination designed to determine the competency of electrical contractors under the National Electrical Code, to certify those individuals passing the examination and to collect and compile reports on disciplinary actions taken against licensed electrical contractors by cities and counties. This regulation is necessary in order to establish procedures of administration and reasonable fees to carry on the certification program.

Section 1. Definitions. (1) "Department" means the Department of Housing, Buildings and Construction.
(2) "NAIE" means the examination based upon the National Electrical Code which is developed, administered and scored by the National Assessment Institute.
(3) "NCPCCI" means the National Certification Program for Construction Code Inspectors.
(4) "Kentucky Certificate of Electrical Contractor Examination" means the written document issued by the department which certifies that the person whose name is listed thereon has successfully completed the examination required by this regulation.

Section 2. Approved Examinations. (1) Any person seeking to obtain a Kentucky Certificate of Electrical Contractor Examination shall pass the examination known as the NAIE, except as allowed by subsection (2) of this section.
(2) Grandfather clause. Any person who is both licensed by any city or county on the effective date of this regulation and who also has previously received a passing grade on one (1) of the following examinations shall be certified upon request as provided by this regulation:
(a) Educational Testing Services Examination (multistate electrical testing); or
(b) Block and Associates Examination; or
(c) NCPCCI Electrical Inspector, General, Examination; or
(d) Any other electrical examination not listed in subsections (1) or (2)(a) through (c) of this section, if [and only if], upon advice of the Electrical Advisory Committee, the department determines that the examination is substantially equivalent to NAIE.
(3) The department shall issue or renew a Kentucky Certificate of Electrical Contractor Examination to any person who complies with the terms of this regulation.

Section 3. Proof of Insurance. (1) An applicant may submit to the department proof of $250,000 liability insurance for electrical construction work by certificate from the insurance company and he may also submit an affidavit that he complies with Kentucky worker's compensation and unemployment insurance laws.
(2) If the applicant submits all the proof as set forth in subsection (1) of this section, the department will indicate that fact on the applicant's certificate. This proof shall be submitted annually, upon renewal, in order to continue to be noted upon the certificate.

Section 4. Application for Certificate. (1) Application shall be made to the department by the individual seeking certification.
(2) The application shall be on forms provided by the department and shall be accompanied by a fee in the sum of $100 to cover the administrative costs of processing the application, verifying examination scores and issuing certificates.
(3) Each person seeking certification pursuant to this regulation shall be required to pay an additional annual renewal fee in the sum of twenty-five (25) dollars no later than June 30 of each year in order to maintain his[/her] certification. Failure to renew shall require reexamination and compliance with this regulation as a new applicant for certification.
(4) The Kentucky Certificate of Electrical Contractor Examination is not a license to do business as an electrical contractor.

Section 5. Notice of Penalty. Any certificate or notation of insurance obtained by misrepresentation or fraudulent representation shall void the certificate or notation.

CHARLES A. COTTON, Commissioner
THEODORE T. COLLEY, Secretary
APPROVED BY AGENCY: June 7, 1990
FILED WITH LRC: June 13, 1990 at noon

CABINET FOR HUMAN RESOURCES
Department for Health Services
(As Amended)

902 KAR 17:020. State health plan process.

RELATES TO: KRS 194.050(1), 216B.015(23)[, Executive Order 86-366]
STATUTORY AUTHORITY: KRS 194.050(1)
NECESSITY AND FUNCTION: KRS 194.050 requires the Secretary of the Cabinet for Human Resources to adopt, administer and enforce all rules and regulations necessary to operate the programs and fulfill the responsibilities vested in the cabinet. [for Human Resources. The cabinet and the Statewide Health Coordinating Council are responsible for development of the state health plan. The Commission for Health Economics Control in Kentucky utilizes the state health plan in the review of applications for certificates of need to establish and modify health services and health facilities in the Commonwealth.]

Section 1. Purpose. The purpose of this regulation is to establish the process by which the state health plan is prepared, amended, and revised. [The state health plan shall serve as a major health policy document which provides a coordinated approach for identifying statewide health needs and addressing major health issues.]

[Section 2. Definitions. (1) "Council" means the State Health Planning [Coordinating] Council [which for administrative purposes is attached to the Department for Health Services, Cabinet for Human Resources].
(2) "Cabinet" means the Cabinet for Human Resources.
(3) "State health plan" means the document duly adopted by the Statewide Health Planning [Coordinating] Council and approved by the Governor.]

Section 2. [3.] State Health Plan Development. [(1) The cabinet shall determine the statewide health needs of the Commonwealth after consultation with the council and after providing reasonable opportunity for the submission of written recommendations respecting such needs from appropriate state agencies and other agencies designated by the Governor for the purpose of making such recommendations.]
[(2) The cabinet shall prepare, review at least triennially and, revise as necessary, a preliminary state health plan.]
(1) [(3)] **Thirty (30) days prior to meeting to prepare or to adopt any update of the State Health Plan, the council shall give general notice of the time, date, and place of such meeting and shall afford any interested party the opportunity to review the proposed changes to the State Health Plan and make written comments. The council shall allow written and oral comments to be made at the council meeting, if such are requested in writing and received by the council ten (10) days prior to their scheduled meeting date.** [Proposed revisions to the state health plan shall be submitted by the cabinet [The cabinet shall submit the preliminary state health plan] to the council for adoption [approval or disapproval and for use in developing the state health plan].]
(2) Upon approval of the State Health Plan by the Governor, the cabinet shall file a proposed administrative regulation with the Legislative Research Commission which incorporates such plan by reference. [Upon adoption of the state health plan by the council, the cabinet shall submit the plan to the Governor for approval.]
[(4) The council shall review the preliminary state health plan and direct the cabinet to make revisions and amendments as necessary.]
[(5) The preliminary state health plan shall become the proposed state health plan upon the approval of its contents by the council.]
(3) [(6)] **If the Governor determines that the proposed plan does not effectively meet statewide health needs and disapproves the proposed plan, the Governor shall make public a detailed statement of the basis for the determination and shall specify the changes that are necessary to meet such needs. The council shall review the changes in the plan which the Governor specifies and shall effect any such revisions and the plan shall be submitted to the Governor for approval within thirty (30) days.** [Upon approval of the [preliminary] state health plan by the Governor [council], the cabinet shall file a proposed administrative regulation with the Legislative Research Commission which incorporates such plan by reference. [those policies, planning criteria, and review standards which are utilized by the Commission on Health Economics Control in Kentucky pursuant to KRS Chapter 216B.040, in the commission's consideration of proposal's consistency with the state health plan.]]
[(7) Prior to submission of the proposed state health plan to the Governor, the council and the cabinet shall conduct a joint public hearing on the proposed plan to receive comments orally or in writing from interested parties. This hearing shall serve as the public hearing required by KRS Chapter 13A for those portions of the plan incorporated by reference into the proposed regulation filed by the cabinet pursuant to subsection (6) of this section.]
[(8) Not less than thirty (30) days prior to such hearing, the cabinet shall publish in at least two (2) newspapers of general circulation in the state, a notice of the council's consideration of the proposed plan, the time and place of the hearing, the place at which interested persons may consult the plan prior to the hearing and the place and period within which written comments on the proposed plan may be submitted.]
[(9) The council shall give written consideration to all comments received at the public hearing. The statement of consideration shall summarize the comments received at the hearing, specify what changes are being made in the plan in response to comments, and, if changes are not being made, specify the reasons for not changing the plan. A copy of the statement of consideration shall be available for public review and shall be provided to all persons who submitted comments on the plan.]
[(10) The cabinet shall prepare a statement of consideration and file it with the Legislative Research Commission pursuant to KRS Chapter 13A for those portions of the plan incorporated by reference into the proposed regulation filed by the cabinet pursuant to subsection (6) of this section. The cabinet's statement of consideration shall be based on the response of the council to the comments received.]
[(11) After approval of the proposed state health plan and any revisions or amendments made

subsequent to the public hearing, the council shall submit the proposed plan to the Governor for approval or disapproval.]

[(12) If the Governor determines the proposed plan does not effectively meet statewide health needs as determined by the cabinet and disapproves the proposed plan, the Governor shall make public a detailed statement of the basis for the determination and shall specify the changes in the plan which the Governor determines are needed to meet such needs. The council shall review the changes in the plan which the Governor specifies and shall implement any such revisions within thirty (30) days. Such revisions shall not be subject to the provisions of subsections (7), (8), and (9) of this section.]

[(13) All revisions and amendments to the state health plan except those specified by the Governor under subsection (10) of this section shall follow the procedures set forth in this regulation for development of the plan.]

C. HERNANDEZ, M.D., Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: April 12, 1990
FILED WITH LRC: April 13, 1990 at 11 a.m.

PROPOSED AMENDMENTS RECEIVED THROUGH NOON, AUGUST 15, 1990

PERSONNEL BOARD
(Proposed Amendment)

101 KAR 1:325. Probationary periods.

RELATES TO: KRS 18A.075, 18A.0751, 18A.111
STATUTORY AUTHORITY: KRS Chapter 13A, 18A.0751
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 specifies that the Personnel Board promulgate comprehensive administrative regulations for the classified service governing probation. KRS 18A.111 relates specifically to probationary periods.

Section 1. Initial Probationary Period. (1) The initial probationary period shall be computed from the effective date of appointment to the corresponding date in the sixth or 12th month, depending upon the length of initial probationary period, except as provided in KRS 18A.111.

(2) The following job classifications shall require an initial probationary period in excess of six (6) months:

TITLE CODE	JOB CLASSIFICATION	LENGTH OF INITIAL PROBATIONARY PERIOD
2001	Fish and Wildlife Law Enforcement Officer Trainee	12 months
2112	DES Duty Officer	12 months
2113	DES Duty Officer Senior	12 months
2306	Park Ranger	12 months
2312	Park Ranger Captain	12 months
2408	MVE Trainee	12 months
2410	MVE Officer Trainee	12 months
2435	MVE Inspector Trainee	12 months
2480	Water Patrol Officer Second Class	12 months
2481	Water Patrol Officer First Class	12 months
3254	Boiler Inspector Trainee	12 months
3416	Financial Institution Examiner Trainee	12 months
5105	Vocational Education Instructor	12 months
5108	Industrial and Trade Instructor	12 months
5110	MSHA Instructor	12 months
5126	Teacher of Blind and/or Visually Impaired Rank III	12 months
5127	Teacher of Blind and/or Visually Impaired Rank II	12 months
5128	Teacher of Blind and/or Visually Impaired Rank I	12 months
5131	Teacher of Deaf and/or Hearing Impaired Rank III	12 months
5132	Teacher of Deaf and/or Hearing Impaired Rank II	12 months
5133	Teacher of Deaf and/or Hearing Impaired Rank I	12 months
5141	Education Teacher Rank III	12 months
5142	Education Teacher Rank II	12 months
5143	Education Teacher Rank I	12 months
7203	Forest Guard	12 months
7205	Forest Ranger	12 months
7207	Forest Ranger Unit	12 months
7209	Forest Ranger District	12 months
7213	Forestry District Equipment Supervisor	12 months
7215	Nursery Foreman	12 months
7217	Nursery Superintendent	12 months
7221	Forester	12 months
7222	Forester Senior	12 months
7224	Forester Chief	12 months
7226	Forester District	12 months
7228	Forester Regional	12 months
7231	Rural Fire Suppression Technical Advisor	12 months
7232	Forestry Program Specialist	12 months
7233	Forestry Program Coordinator	12 months
7235	Forestry Program Manager	12 months

(3) If the length of the initial probationary period for a job classification is changed, an employee serving an initial probationary period on the effective date of the change shall serve the shorter of the initial probationary periods. When the employee is appointed, the employee's appointing authority shall advise the employee of the period of his initial probation.

Section 2. Promotional Probationary Period. (1) An employee who satisfactorily completes the promotional probationary period shall be granted status in the position to which he has been promoted. Unless an employee receives notice prior to the end of his promotional probationary period that he has failed to satisfactorily complete the promotional probationary period and that he is being reverted, the employee shall be deemed to have served satisfactorily and shall acquire status in the position to which he has been promoted.

(2) An employee who fails to satisfactorily complete a promotional probationary period shall be reverted to his former position or to a position in the same job classification as his former position. If an employee fails to satisfactorily complete a promotional probationary period, he shall be notified in writing at least ten (10) working days prior to the effective date of his reversion. The notification shall advise the employee of the effective date of reversion. When the employee is notified, copies of the notice of reversion shall be forwarded to the Commissioner of Personnel on the same date notice is delivered to the employee.

(3) The promotional probationary period shall be computed from the effective date of promotion to the corresponding date in the sixth month following promotion, except as provided in KRS 18A.111.

Section 3. Probationary Period Upon Reinstatement. An employee who is reinstated, except an employee ordered reinstated pursuant to KRS 18A.111(3), to a position in the classified service shall serve a promotional probationary period.

THOMAS C. GREENWELL, Commissioner
JAMES M. SHAKE, Chairman
APPROVED BY AGENCY: August 10, 1990
FILED WITH LRC: August 15, 1990 at 11 a.m.
PUBLIC HEARING: A public hearing on this regulation shall be held on September 25, 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 September 20, 1990, five days prior to the scheduled 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. The 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: Arthur 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: No appreciable change.
1. First year: NA
2. Continuing costs or savings: NA
3. Additional factors increasing or decreasing costs (note any effects upon competition): NA
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body: None
(a) Direct and indirect costs or savings: NA
1. First year: NA
2. Continuing costs or savings: NA
3. Additional factors increasing or decreasing costs: NA
(b) Reporting and paperwork requirements: NA
(3) Assessment of anticipated effect on state and local revenues: NA
(4) Assessment of alternative methods; reasons why alternatives were rejected: NA
(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: NA
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: NA
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. This regulation must apply equally to all classified employees and all state agencies with classified employees.

DEPARTMENT OF PERSONNEL
(Proposed Amendment)

101 KAR 2:100. Leave regulations.

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

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

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

A full-time employee must have worked more than half of the workdays in a month to qualify for annual leave. Each employee shall be credited with additional leave upon the first day of the month following the month in which the leave is earned. In computing months of total service for the purpose of earning annual leave, only those months for which an employee earned annual leave shall be counted or in the case of a part-time employee, only those months in which the employee worked at least 100 hours shall be counted. In those cases where an employee is changed from part time to full time, those months in which the employee worked at least 100 hours as a part-time employee shall be counted in computing years of total service. Former employees who have been rehired and who have been previously dismissed for cause from state service shall receive credit for service prior to the dismissal, except where such dismissal resulted from a violation of KRS 18A.140, 18A.145, or 18A.990. In those cases where an employee is changed from full time to part time, those months for which the employee earned annual leave as a full-time employee shall be counted in computing months of total service. Employees serving on a part-time basis who work less than 100 hours a month shall not be entitled to annual leave.
(2) Annual leave may be accumulated and carried forward from one (1) calendar year to the next not to exceed the following maximum amounts:

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

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

authorized for such purposes may, at the request of the employee and within the discretion of the appointing authority, be charged against annual leave.

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

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

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

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

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

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

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

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

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

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

(10) Employees shall be paid in a lump sum for accumulated annual leave, not to exceed the maximum amounts as set forth in paragraph (2) of this section, when separated by proper resignation or retirement. In the case of layoff, the employee shall be paid in a lump sum for all accumulated leave. An employee in the unclassified service who reverts to the classified service or an employee who resigns one day and is employed the next day shall retain his accumulated leave in the receiving agency. The effective date of the separation shall be the last workday.

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

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

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

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

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

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

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

employee is on educational leave with pay.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(14) Supporting evidence.

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

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

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

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

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

[a. The name of the donor.]

[b. The agency in which the donor is employed.]

[c. The position number of the donor.]

[d. The Social Security number of the donor.]

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

[f. The agency in which the donee is employed.]

[g. The donee position number.]

[h. The donee Social Security number.]

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

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

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

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

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

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

[a. Employee name.]

[b. Position number.]

[c. Social Security number.]

[d. Employee title.]

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

[f. Signature of the requestor or his personal representative.]

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

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

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

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

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

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

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

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

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

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

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

(4) An employee who has accrued compensatory leave shall be permitted by the appointing authority or his designee to take such time off when practicable. To maintain a manageable level of accumulated compensatory time and for the specific purpose of reducing an employee's compensatory leave, an appointing authority or his designee may direct an employee to take accumulated compensatory time off from work. Notice must be in writing specifying the number of hours to be taken.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

BOARD CERTIFICATE OF REVIEW:

This is to certify that pursuant to KRS 18A.110(5) the regulations listed below were submitted to the Personnel Board by the Commissioner of Personnel on June 28, 1990. The board at its special scheduled meeting on July 24, 1990, reviewed the department's proposals and made certain recommendations which were forwarded to the commissioner for his consideration. The regulations reviewed were as follows: 101 KAR 2:035 & E, 101 KAR 2:045 & E, 101 KAR 2:055 & E, 101 KAR 2:065 & E, 101 KAR 2:075 & E, 101 KAR 2:095 & E, 101 KAR 2:100 (amendment). This 24th day of July, 1990.

BENJAMIN J. HAYS, Vice-Chairman

(Note: Chairman Shake was not present at the 7/24/90 meeting. Vice-Chairman Hays chaired.)

THOMAS C. GREENWELL, Commissioner
APPROVED BY AGENCY: July 24, 1990
FILED WITH LRC: August 3, 1990 at 2 p.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 21, 1990 at 10 a.m. in Room 381 Capitol Annex, Frankfort, Kentucky 40601. Individuals interested in attending this hearing shall notify this agency in writing by September 16, 1990, five days prior to 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: Daniel F. Egbers, Managing Attorney, Department of Personnel, Capitol Annex, Room 377, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Daniel F. Egbers
(1) Type and number of entities affected: All appointing authorities and employees in the Executive Department subject to KRS Chapter 18A.
(a) Direct and indirect costs or savings to those affected: Section 2(15) dealing with sick leave sharing was superceded by SB 35 and is deleted to avoid conflict.
1. First year: None
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: No substantive change. The Department of Personnel has developed a form to be used in conjunction with the sick leave sharing program. A computer program will facilitate transfer of leave.
(2) Effects on the promulgating administrative body: No substantive change.
(a) Direct and indirect costs or savings: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: No substantive change.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative available.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: None
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: No
(6) Any additional information or comments: No
TIERING: Was tiering applied? Yes

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 includes 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" principal 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 than the federal mandate.

DEPARTMENT OF PERSONNEL
(Proposed Amendment)

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

RELATES TO: KRS 18A.155
STATUTORY AUTHORITY: KRS Chapter 13A, 18A.155
NECESSITY AND FUNCTION: KRS 18A.155 requires the Commissioner of Personnel to submit to the Governor proposed administrative regulations for the unclassified service persons in positions enumerated in KRS 18A.155(1)(g), (h), (i), (j), (k), (p), (u) and (v). KRS 18A.155 further provides that these regulations shall be approved by the Governor. In practice, the leave regulations (101 KAR 2:100) which apply to merit system employees in the following specific areas have also been applied to the aforementioned categories of employees in the unclassified service.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(10) Employees shall be paid in a lump sum for accumulated annual leave, not to exceed the maximum amounts as set forth in Section 1(2) of

this regulation, when separated by proper resignation or retirement. In the case of layoff, the employee shall be paid in a lump sum for all accumulated annual leave. An employee in the unclassified service who reverts to the classified service or an employee who resigns one day and is employed the next day shall retain his accumulated leave in the receiving agency. The effective date of the separation shall be the last workday.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) When the employee is unable to work or

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

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

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

(11) Employees shall be credited for accumulated sick leave when separated by proper resignation, layoff, retirement, or when granted leave without pay in excess of thirty (30) working days. Former employees who are reinstated or reemployed shall have unused sick leave balances revived upon appointment and placed to their credit.

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

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

(14) Supporting evidence.

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

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

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

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

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

[a. The name of the donor.]

[b. The agency in which the donor is employed.]

[c. The position number of the donor.]

[d. The Social Security number of the donor.]

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

[f. The agency in which the donee is employed.]

[g. The donee position number.]

[h. The donee Social Security number.]

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

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

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

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

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

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

[a. Employee name.]

[b. Position number.]

[c. Social Security number.]

[d. Employee title.]

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

[f. Signature of the requestor or his personal representative.]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) An employee in a policy making position shall be paid for all accrued compensatory leave, not to exceed 200 hours, only upon termination from the unclassified service. An employee who reverts to a position in the classified service or an employee who resigns one day and is employed the next day shall retain his accrued compensatory leave in the receiving agency.

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

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

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

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

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

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

interests of the state service.

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

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

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

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

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

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

BOARD CERTIFICATE OF REVIEW:

This is to certify that pursuant to KRS 18A.110(5) the regulations listed below were submitted to the Personnel Board by the Commissioner of Personnel on June 28, 1990. The board at its special scheduled meeting on July 24, 1990, reviewed the department's proposals and made certain recommendations which were forwarded to the commissioner for his consideration. The regulations reviewed were as follows: 101 KAR 2:035 & E, 101 KAR 2:045 & E, 101 KAR 2:055 & E, 101 KAR 2:065 & E, 101 KAR 2:075 & E, 101 KAR 2:095 & E, 101 KAR 2:100 (amendment). This 24th day of July, 1990.

BENJAMIN J. HAYS, Vice-Chairman

(Note: Chairman Shake was not present at the 7/24/90 meeting. Vice-Chairman Hays chaired.)

WALLACE G. WILKINSON, Governor
THOMAS C. GREENWELL, Commissioner

APPROVED BY AGENCY: July 3, 1990

FILED WITH LRC: August 3, 1990 at 2 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 21, 1990 at 10 a.m. in Room 381 Capitol Annex, Frankfort, Kentucky 40601. Individuals interested in attending this hearing shall notify this agency in writing by September 16, 1990, five days prior to 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: Daniel F. Egbers, Managing Attorney, Department of Personnel, Capitol Annex, Room 377, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Daniel F. Egbers

(1) Type and number of entities affected: All appointing authorities and employees in the Executive Department subject to KRS Chapter 18A.

(a) Direct and indirect costs or savings to those affected: Sick leave sharing is eliminated because it was superceded by SB 35. Amendment allows recovery of annual leave value upon retirement.

1. First year: None
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: No substantive change. The Department of Personnel has developed a form to be used in conjunction with the sick leave sharing program. A computer program will facilitate transfer of leave.

(2) Effects on the promulgating administrative body: No substantive change.

(a) Direct and indirect costs or savings: None

1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No substantive change.

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

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

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

(a) Necessity of proposed regulation if in conflict: None

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: No

(6) Any additional information or comments: No

TIERING: Was tiering applied? Yes

REVENUE CABINET
Department of Administrative Services
(Proposed Amendment)

103 KAR 1:010. Protests and appeals.

RELATES TO: KRS 131.081, 131.110, 131.340, 131.345, 131.360, 131.370, 139.760, 139.980(4)
STATUTORY AUTHORITY: KRS Chapter 13A, 131.130
NECESSITY AND FUNCTION: This regulation summarizes significant portions of the statutes dealing with taxpayer protest and appeal rights and outlines procedures to facilitate the filing, processing and disposition of such protests and appeal.

Section 1. Protest - Assessments. (1) Taxpayers will be notified of additional tax assessments by mail. Payment including interest from the original due date, in the absence of protest, must be made within forty-five (45) [thirty (30)] days from the date of the notice of tax due.

(2) A written protest may be filed by the taxpayer, or other persons representing the taxpayer, against additional assessments. The protest shall be filed with the Revenue Cabinet within forty-five (45) [thirty (30)] days from the date of notice.

(3) A hearing may also be requested. The taxpayer may appear in person or by representative. If a taxpayer is not present in person, or if a corporation is not represented by an authorized officer, the cabinet may require the taxpayer's representative to furnish evidence of his authority to act for the taxpayer. Consideration will be given to additional information presented in the protest and at hearings and the additional assessment may be adjusted accordingly.

(4) As provided in KRS 131.081, a taxpayer may make an audio recording of any conference with or hearing by the Revenue Cabinet. However, the Revenue Cabinet may make such a recording only if the taxpayer is given prior written notice. If the conference or hearing is recorded by the Revenue Cabinet, the taxpayer may obtain a copy or transcript thereof as provided in KRS 61.874.

Section 2. Protests - Refund or Credit Denials. (1) Taxpayers will also be notified by mail of disallowance or partial disallowance of any refund or credit claim including a refund or credit requested upon any return.

(2) A taxpayer may protest such disallowance or partial disallowance by written protest filed with the Revenue Cabinet, within forty-five (45) [thirty (30)] days of the disallowance. Procedures governing protests and hearings for refunds and credits are the same as for assessments.

Section 3. Final Ruling. If the taxpayer's protest of an assessment or refund or credit denial cannot be resolved through correspondence and/or conferences with officials of the Revenue Cabinet and he desires to exercise his rights of further appeal, the taxpayer may request in writing a final ruling at any time after the filing of a timely protest and supporting statements. The final ruling shall be given to the taxpayer within thirty (30) days from the date the request is received by the cabinet.

Section 4. Appeal - Kentucky Board of Tax Appeals. (The following procedure is prescribed by rules and regulations of the board):

(1) If a taxpayer desires to appeal a final ruling of the cabinet he may, within thirty (30) days from the date of such ruling, apply for a hearing before the Kentucky Board of Tax Appeals. The appeal:

(a) Must be filed in quintuplicate;

(b) Must contain a brief statement of the law and facts in issue;

(c) Must state the petitioner's position regarding the law, facts, or both; and

(d) Must contain a copy of the final ruling of the cabinet.

(2) The board will set a date for a formal hearing. The hearing procedure before the board will be in accordance with the board's rules.

(3) On the basis of the hearing, briefs, and other documents, the board will issue a written order which will affirm, reverse, modify or remand the final ruling, and will forward a copy of the order to the taxpayer and the cabinet. Assessments upheld by the board shall be due and payable thirty (30) days after the date of the board's order. In the absence of appeal, penalties for failure to pay tax when due apply if payment is not made within thirty (30) days after the date of the board's order.

(4) Interest from the original due date of the return until the tax is paid shall be added to the additional assessments.

(5) As provided in KRS 131.355, all hearings before the board are required to be officially reported and all records of proceedings shall be public records except in the case of appeals of unmined minerals assessments in which, under specified circumstances, the statute prohibits disclosure of records or any recorded or transcribed testimony concerning such records. In such cases, a protective order is required to be entered and remain in effect during the entire appeals process, including appeals to the courts, and thereafter, preventing the parties, their agents and representatives, except the taxpayer, from disclosing the confidential records or testimony concerning them outside the appeals proceedings.

Section 5. Appeal - Circuit Court. Any party aggrieved by a final order of the Kentucky Board of Tax Appeals may, within thirty (30) days after such order becomes final, file a notice of appeal with the Kentucky Board of Tax Appeals and shall serve a copy of said notice upon all other parties to the appeal. A statement of appeal must then be filed within (30) days after the date on which the notice of appeal was filed with the appropriate circuit court, with a copy of the ruling made before the Kentucky Board of Tax Appeals. The statement of appeal must conform to that required to be filed in the Kentucky Supreme Court. Pursuant to KRS 131.370, if the appeal is from an order sustaining a tax assessment, collection of the tax may be stayed by the filing of a supersedeas bond in the manner directed by the Rules of Civil Procedure, or by payment of the tax as provided in KRS 134.580(1).

Section 6. Appeal - Kentucky Court of Appeals and Kentucky Supreme Court. Any party may appeal to the Kentucky Court of Appeals and to the Kentucky Supreme Court under rules provided by those courts.

C. EMMETT CALVERT, Secretary
APPROVED BY AGENCY: August 14, 1990
FILED WITH LRC: August 15, 1990 at 9 a.m.

PUBLIC HEARING: A public hearing on this regulation will be held on September 24, 1990 at 10 a.m. in Room 406 of the Capitol Annex, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by September 19, 1990, five days prior to hearing, of their intent to attend. If no notification of intent to attend the public hearing is received by this date, the hearing may be cancelled. The 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: Scott Akers, Revenue Cabinet, Division of Tax Policy and Legal Services, New Capitol Annex Building, Frankfort, Kentucky 40620.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Scott Akers

(1) Type and number of entities affected: All persons responsible for reporting and/or paying any tax to the Kentucky Revenue Cabinet are affected. The proposed amendments simply incorporate 1990 legislative changes, i.e., the HB 802 extension of the protest period to 45 days and extend taxpayer rights, the SB 391 confidentiality requirement for unmined minerals records, and the HB 445 provision for supersedeas bonds to stay collection of taxes ruled due by the Kentucky Board of Tax Appeals.

(a) Direct and indirect costs or savings to those affected: There would be no required additional costs to taxpayers. Those taxpayers electing to exercise their right to record conferences or hearings with the Revenue Cabinet or electing to stay collection of a tax sustained by the KBTA would likely incur some additional cost. Such cost would be dependent on each taxpayer's choice of recording methods or selection of a bonding company. Taxpayers would gain a savings through the added 15 day delay before taxes become final, due and owing. Such savings would be dependent on the rate of interest each taxpayer could earn during the delay period.

1. First year: There would be no required additional costs to taxpayers. Those taxpayers electing to exercise their right to record conferences or hearings with the Revenue Cabinet or electing to stay collection of a tax sustained by the KBTA would likely incur some additional cost. Such cost would be dependent on each taxpayer's choice of recording methods or selection of a bonding company. Taxpayers would gain a savings through the added 15 day delay before taxes become final, due and owing. Such savings would be dependent on the rate of interest each taxpayer could earn during the delay period.

2. Continuing costs or savings: There would be no required additional costs to taxpayers. Those taxpayers electing to exercise their right to record conferences or hearings with the Revenue Cabinet or electing to stay collection of a tax sustained by the KBTA would likely incur some additional cost. Such cost would be dependent on each taxpayer's choice of recording methods or selection of a bonding company. Taxpayers would gain a savings through the added 15 day delay before taxes become final, due and owing. Such savings would be dependent on the rate of interest each taxpayer could earn during the delay period.

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

(b) Reporting and paperwork requirements: None. However, those taxpayers electing to obtain a supersedeas bond would likely need to provide financial data to the bonding company.

(2) Effects on the promulgating administrative body: Except for initial computer programming changes required, there would be only minor impact on the Revenue Cabinet. The administrative process would be lengthened, but not otherwise changed.

(a) Direct and indirect costs or savings: There would be no additional costs or savings to the Revenue Cabinet except for computer programming changes required. However, the Commonwealth will lose the use of tax funds from assessments for the additional 15 day delay before tax assessments made by the Revenue Cabinet become final, due and owing. The same would be true for any tax which is delayed in payment because the taxpayer elected to obtain a supersedeas bond.

1. First year: There would be no additional costs or savings to the Revenue Cabinet except for computer programming changes required. However, the Commonwealth will lose the use of tax funds from assessments for the additional 15 day delay before tax assessments made by the Revenue Cabinet become final, due and owing. The same would be true for any tax which is delayed in payment because the taxpayer elected to obtain a supersedeas bond.

2. Continuing costs or savings: There would be no additional costs or savings to the Revenue Cabinet except for computer programming changes required. However, the Commonwealth will lose the use of tax funds from assessments for the additional 15 day delay before tax assessments made by the Revenue Cabinet become final, due and owing. The same would be true for any tax which is delayed in payment because the taxpayer elected to obtain a supersedeas bond.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: There would be no change in the current reporting and paperwork requirements for the Revenue Cabinet.

(3) Assessment of anticipated effect on state and local revenues: Because of the extension of the protest period by 15 days, collection of assessments issued by the Revenue Cabinet would be delayed by 15 days. This will negatively impact both the General Fund and the Road Fund during the implementation year by $3.5 million. There would be no impact on local revenues except to the extent that state revenues are returned to local governments.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Since the proposed amendments to this regulation are specifically provided by 1990 legislation, there were no alternative methods available.

(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: 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: The proposed amendments simply incorporate the applicable provisions of 1990 legislation contained in SB 391, HB 445 and HB 802.

TIERING: Was tiering applied? No. This regulation applies equally to all taxpayers. There is no statutory authority to provide preferential treatment on the basis of size or other criteria.

REVENUE CABINET
Department of Administrative Services
(Proposed Amendment)

103 KAR 26:070. Construction contractors.

RELATES TO: KRS 139.110, 139.150, 139.190, 139.210, 139.240, 139.260, 139.270, 139.310, 139.340, 139.560, 139.710, 139.730

STATUTORY AUTHORITY: KRS Chapter 13A, 131.130

NECESSITY AND FUNCTION: To interpret the sales and use tax law as it applies to transactions involving contractors making improvements to real property.

Section 1. All sales to contractors, subcontractors, builders or owners of building materials, fixtures and supplies which are to be incorporated or fabricated into any structure or improvement to real estate by the process of erecting, remodeling, or repairing such structure or improvement are subject to the sales or use tax at the time of sale to the contractor, subcontractor, builder or owner. This [rule] applies irrespective of the type of contract (lump-sum and materials, cost plus fixed fee, or other) for which the purchase is made. A person, firm, association, partnership or corporation engaged exclusively in construction work as a contractor or subcontractor is not required to hold a retail sales tax permit and such a permit will not be issued to these persons.

Section 2. Definitions. (1) The terms "contractor" and "subcontractor" are used herein in the common and ordinary acceptance of the terms and include both general contractors and subcontractors engaged in such building trades as carpentry, bricklaying, wall to wall carpeting, cement work, steel work, plastering, sheet metal work (including aluminum siding), roofing, tile and terrazzo work, cabinet work, electrical work, plumbing, central heating and air conditioning, painting, interior decorating, and storm window and permanent awning work. The terms "contractor" and "subcontractor" as used herein do not include any person who repairs tangible personal property.

(2) The term "construction contract" as used herein means a contract for erecting, remodeling, or repairing a building or other structure on land and includes lump-sum, cost plus, and time-and-materials contracts, but does not include a contract for the sale and installation of machinery, appliances or equipment which the contractor has sold but which do not become part of the real property. (In this latter case, the contractor must apply for a retail sales and use tax permit and remit tax on his sales price of the machinery, appliances or equipment.) Examples of taxable sales include refrigerators, oven-ranges and dishwashers which are not built-in, laundry appliances, window unit air conditioners and space heaters.

(3) The term "materials" means all of the tangible personal property, other than fixtures, which enters into and becomes a permanent part of a structure. Examples of materials are: bricks, builders hardware, cement, gravel, sand, macadam, asphalt, lumber, electrical wiring, wall board and coping, roofing, guttering, aluminum siding, storm doors and windows, and cabinets.

(4) The term "fixtures" means things which are accessory to a building and do not lose their identity as accessories but which do become a permanent part of the realty. Examples of fixtures are: lighting fixtures, plumbing fixtures, hot water heaters, furnaces, boilers, central heating units, elevators, hoists, burglar and fire alarm fixtures, central air conditioning and built-in refrigeration units, built-in oven-ranges and dishwashers, and cabinets.

(5) The term "improvements to real estate" as used in this regulation includes, but is not limited to, buildings, roads, sewers, dams, railroads, and fences.

Section 3. A contractor may not claim that the purchase of materials or fixtures is not subject to the tax because the property is to be used in fulfilling a contract with the federal government, state government or political subdivision thereof, or any department, agency, or instrumentality of the federal government, state government or political subdivision thereof, or with a religious, educational, or charitable institution.

Section 4. A Kentucky supplier[, if he passes on the tax,] and any out-of-state supplier who is the holder of a permit for collection of the use tax, shall bill and collect Kentucky tax from the contractor. A contractor, unless he falls within the exception described in Section 5 of this regulation, will not be the holder of a retail sales and use tax permit and is not entitled to execute a resale certificate. The supplier is not to accept any number of the series 900000 as evidence that the purchaser is the holder of a permit. Such numbers are issued to contractors for the purpose of reporting on a Consumer's Use Tax Return. Nor is the supplier to accept any resale certificate from a contractor-retailer who holds a permit under the exception to this rule, for any materials or supplies which the supplier, in fact, knows are to be used by such purchaser in his own construction business. Any contractor, subcontractor, builder or owner who purchases such items from an out-of-state supplier who is not licensed to collect the Kentucky use tax shall report and pay such use tax directly to the cabinet on a Consumer's Use Tax Return based upon his purchase price of the property.

Section 5. In some instances, contractors and subcontractors are in a dual business which includes selling machinery, appliances or

equipment as described in Section 2 of this regulation or reselling to the general public on an "over-the-counter" basis the same type of building materials and supplies as is used by them in their own construction work. A person operating such a dual business is referred to in this regulation [rule] as a contractor-retailer, and constitutes the sole exception under which a contractor will be issued a permit. Because of the retail business he operates, such a contractor-retailer must make application for a Retail Sales and Use Tax Permit. Upon issuance of the permit, a contractor-retailer may then execute resale certificates for the machinery, appliances or equipment purchased for resale and for all items of inventory which he purchases for resale in his retail business. He may also issue a resale certificate for any items that he regularly holds in stock when he does not know at the time of purchase whether such items will be resold or used by him in his own construction business.

Section 6. In the event any contractor, subcontractor, builder, or contractor-retailer is the manufacturer of the building material or supplies he uses in his construction business, the tax shall apply to the sales price to him of all tangible personal property which enters into the manufacture of such materials or supplies.

Section 7. Any contractor-retailer who has no fixed place of business from which he regularly operates may be required to post a security as provided in KRS 139.660.

C. EMMETT CALVERT, Secretary
APPROVED BY AGENCY: August 14, 1990
FILED WITH LRC: August 15, 1990 at 9 a.m.
PUBLIC HEARING: A public hearing on this regulation will be held on September 26, 1990 at 10 a.m. in Room 406 of the Capitol Annex, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by September 21, 1990, five days prior to hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the public hearing may be cancelled. The 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: Raymond L. Kring, Revenue Cabinet, Division of Tax Policy and Legal Services, New Capitol Annex Building, Frankfort, Kentucky 40620.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Raymond L. Kring
(1) Type and number of entities affected: The only entities affected are construction contractors and their suppliers. There are 1,183 construction contractors registered with the Revenue Cabinet. Sales tax permit holders totaling 93,136 would potentially supply such contractors. The proposed amendment simply reflects the requirement for retailers to collect the tax from consumers as provided in HB 375. Previously, retailers could absorb the tax although few did so.
(a) Direct and indirect costs or savings to those affected: There would be no cost or savings to those affected. For those few retailers who previously absorbed the tax, the sales price would undoubtedly be lowered to reflect a price without tax so that when the required tax is added, there would be no actual change in the net price to the customer.
1. First year: There would be no cost or savings to those affected. For those few retailers who previously absorbed the tax, the sales price would undoubtedly be lowered to reflect a price without tax so that when the required tax is added, there would be no actual change in the net price to the customer.
2. Continuing costs or savings: There would be no cost or savings to those affected. For those few retailers who previously absorbed the tax, the sales price would undoubtedly be lowered to reflect a price without tax so that when the required tax is added, there would be no actual change in the net price to the customer.
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: There would be no change from current reporting or paperwork requirements for retailers or contractors.
(2) Effects on the promulgating administrative body: There would be no change from current administrative requirements for the Revenue Cabinet.
(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: Since the proposed amendment to this regulation is specifically provided by 1990 legislation, there were no alternative methods available.
(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: 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: The proposed amendment simply incorporates the applicable provision of 1990 legislation contained in HB 775.
TIERING: Was tiering applied? No. This regulation applies equally to all construction contractors and their suppliers. There is no statutory authority to provide preferential treatment on the basis of size or other criteria.

REVENUE CABINET
Department of Administrative Services
(Proposed Amendment)

103 KAR 27:100. Motor vehicles, mobile homes and trailers.

RELATES TO: KRS 139.050, 139.130
STATUTORY AUTHORITY: KRS Chapter 13A, 131.130
NECESSITY AND FUNCTION: To interpret the sales and use tax law as it applies to sales of motor vehicles, mobile homes and trailers.

Section 1. As used in this regulation, "motor vehicle" includes trailers and semitrailers as defined in KRS 189.010(11) and (16).

Section 2. Gross receipts from sales of motor vehicles including motorcycles, which are registered for use on the public highways and upon which any applicable motor vehicle usage tax [(103 KAR 44:010)] levied by KRS 138.460(1) has been paid, are not subject to sales or use tax. Motor vehicle means any vehicle that is propelled by other than muscular power and that is used for transportation of persons or property over the public highways of the state, except road rollers, vehicles that travel exclusively on rails, and vehicles propelled by electric power obtained from overhead wires.

Section 3. Mobile homes, camper trailers and boat trailers are not motor vehicles and are subject to the sales or use tax. Trailers and semitrailers as defined in KRS 189.010(11) and 189.010(16) are motor vehicles and are not subject to sales or use tax.

C. EMMETT CALVERT, Secretary
APPROVED BY AGENCY: August 14, 1990
FILED WITH LRC: August 15, 1990 at 9 a.m.
PUBLIC HEARING: A public hearing on this regulation will be held on September 26, 1990 at 2 p.m. in Room 406 of the Capitol Annex, Frankfort, Kentucky. Individuals interested in attening this hearing shall notify this agency in writing by September 21, 1990, five days prior to 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. The 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: Raymond L. Kring, Revenue Cabinet, Division of Tax Policy and Legal Services, New Capitol Annex Building, Frankfort, Kentucky 40620.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Raymond L. Kring
(1) Type and number of entities affected: The only entities affected are retailers of motor vehicles, mobile homes and trailers. There are 2,454 such retailers registered with the Revenue Cabinet. The proposed amendment simply deletes an unnecessary reference to 103 KAR 44:010 which expired on July 13, 1990.
(a) Direct and indirect costs or savings to those affected: There would be no costs or savings to those affected. The proposed amendment simply deletes an unnecessary reference to 103 KAR 44:010 which expired on July 13, 1990.
1. First year: There would be no costs or savings to those affected. The proposed amendment simply deletes an unnecessary reference to 103 KAR 44:010 which expired on July 13, 1990.
2. Continuing costs or savings: There would be no costs or savings to those affected. The proposed amendment simply deletes an unnecessary reference to 103 KAR 44:010 which expired on July 13, 1990.
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: There would be no change from current reporting or paperwork requirements for affected retailers.
(2) Effects on the promulgating administrative body: There would be no change from current administrative requirements for the Revenue Cabinet.
(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: Since the proposed amendment to this regulation only deletes an unnecessary reference to an expired regulation, there were no alternative methods available.
(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: 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: The proposed amendment simply deletes the unnecessary reference to an expired regulation.
TIERING: Was tiering applied? No. This regulation applies equally to all affected retailers. There is no statutory authority to provide preferential treatment on the basis of size or other criteria.

REVENUE CABINET
Department of Administrative Services
(Proposed Amendment)

103 KAR 28:051. Leases and rentals.

RELATES TO: KRS 139.050, 139.090, 139.100, 139.110, 139.120, 139.200, 139.210, 139.290, 139.310, 139.320, 139.330, 139.340, 139.430, 139.471, 139.484, 139.490, 139.532, 139.600, 139.620
STATUTORY AUTHORITY: KRS Chapter 13A, 131.130
NECESSITY AND FUNCTION: To interpret the sales and use tax law as it relates to leases and rentals of tangible personal property.

Section 1. (1) General rules. [On and after August 1, 1985,] The lease or rental of tangible personal property for a consideration in Kentucky is treated as a sale or purchase the receipts of which are subject to the sales or use tax. The term "lease or rental" means the grant to another of the right to use and possess tangible personal property for a period of time and for a consideration. The term "lease or rental" includes financing transactions by a financial institution or leasing affiliate of a financial institution although title is transferred principally for the purpose of securing the lessor's financial interest. The term does not include the lease or rental of real property or a transaction which provides a service. The providing of a service is any transaction which includes both services and tangible personal property for a consideration where the performance of the service is the essence of the transaction. Persons engaged in leasing or renting tangible personal property for use in Kentucky are retailers who must register with the Revenue Cabinet to obtain a retail sales and use tax permit and report and pay the applicable tax derived from the gross lease or rental receipts. [Lessors not registered with the Revenue Cabinet for sales and use tax purposes as of August 1, 1985, or who enter into business subsequent to this date, must register by filing a Kentucky Tax Registration Application, Revenue Form 10A100.]

(2) Transitional rules. Effective July 1, 1990, the sales and use tax rate applicable to gross receipts from taxable leases and rentals of tangible personal property is increased to six (6) percent. However, the five (5) percent tax rate shall continue past July 1, 1990 for those receipts derived from lease or rental agreements entered into on or before March 9, 1990. An exemption certificate is not required from the lessee for continuation of the five (5) percent tax rate, but business records of the lessor shall be retained to document that the lease or rental agreement was entered into on or before March 9, 1990. In the absence of such records, the lessor's gross receipts from the lease or rental transaction shall be subject to the six (6) percent tax rate. [Lease or rental agreements involving tangible personal property executed on and after August 1, 1985 are subject to the sales and use tax. Receipts from lease or rental agreements for tangible personal property entered into prior to August 1, 1985 are subject to the tax effective August 1, 1985 unless the appropriate amount of tax was paid on the property on or before August 20, 1985, the due date of the July sales and use tax return. Persons claiming that receipts from lease or rental agreements are not taxable must retain documentary evidence to substantiate their exclusion from the measure of the tax. Receipts from lease or rental agreements entered into prior to August 1, 1985 which have qualified for this exclusion will become taxable when it is necessary to acquire tangible personal property after August 1, 1985 to replace the original leased or rented property to fulfill the terms of the agreement. Renewals or new lease or rental agreements executed subsequent to July 31, 1985 that involve property which was the subject of a lease or rental agreement executed prior to August 1, 1985 are subject to the tax regardless of whether or not tax was paid on the purchase price of the property on or before August 20, 1985. Lease or rental receipts based upon unwritten agreements are considered renewals or new lease or rental agreements subject to tax effective August 1, 1985. Lease or rental agreements which become effective on or after August 1, 1985 because of the exercise of a continuation option contained in a lease or rental agreement executed prior to August 1, 1985 are subject to tax. The tax applicable to the purchase price of tangible personal property, which is the subject of a lease or rental agreement entered into prior to August 1, 1985, that has not been remitted to the Commonwealth remains the liability of the lessor under prior law. This debt will not be relieved until payment of the tax and related charges or expiration of the period provided by law for timely assessment of unpaid liabilities.]

(3) Resale. Tangible personal property purchased exclusively for lease or rental may be purchased for resale without payment of the tax at the time of purchase. Lessors must execute Revenue Form 51A105, Resale Certificate, to their suppliers. The purchase by lessors of parts and accessories which become part of the leased or rented property may also be purchased under a resale certificate. However, property purchased by a lessee to maintain leased or rented property of a lessor is subject to the tax. Tangible personal property purchased for resale without payment of the tax and to be utilized exclusively for lease or rental, and so used, but subsequently used by the retailer/lessor for some purpose other than lease or rental becomes subject to tax upon such use. The tax is the responsibility of the retailer/lessor and is measured by the purchase price of the property and is in addition to the tax due on the lease or rental receipts. When tangible personal property is purchased in part for lease or rental and in part for use, such property may not be purchased from a vendor under a resale certificate and is subject to tax. Receipts from the lease or rental of such property by the purchaser are also taxable. Retailers who purchase tangible personal property for outright sale, but, while holding such property in their inventory, make use of the property in their business through lease or rental, are responsible for the tax applicable to such lease or rental receipts. When tangible personal property is purchased by a person for use in conducting a retail activity and has not been acquired for resale, the tax applies at the time of purchase. If during the course of ownership of the property, lease or rental of the property occurs, such leases or rentals are subject to tax. The amount charged for any rooms, lodgings or accommodations furnished to transients by the operator of any apartment house, hotel, inn, motel, tourist camp or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration is subject to the sales tax. However, persons who rent such accommodations to transients for a consideration may not issue a resale certificate for the lease or rental of items such as beds, bedding, other furniture and equipment. Business enterprises which furnish accommodations to transients are the consumers of such leased or rented tangible personal property. When tangible personal property has been purchased [on or after August 1, 1985,] by a retailer engaged exclusively in leasing or renting such property and the retailer has paid the sales or use tax

applicable to the purchase price of the property, a deduction may be taken from the retailer's gross lease or rental receipts for an amount equal to the purchase price of the property. The deduction is contingent upon the retailer using the property exclusively for lease or rental.

(4) Gross receipts. Gross receipts from the lease or rental of tangible personal property shall include the total amount of payment or payments received by the lessor from the lessee as well as payments paid by the lessee to a third party for the benefit of the lessor which are required by the terms of the agreement. Gross receipts from the lease or rental of tangible personal property include amounts designated by the lease or rental agreement as finance or interest charges, and all other itemized charges with the sole exception being separately stated property tax and insurance charges. Charges by a lessor to a lessee for a separately executed maintenance agreement which is not a part of the lease or rental agreement are not subject to tax. Each period for which a lease or rental is payable shall be considered a complete transaction in determining a "retailer" responsible for the tax in accordance with KRS 139.110(1)(c).

(5) Tax responsibility. Every retailer leasing or renting tangible personal property within this state is responsible for the sales tax applicable to gross lease or rental receipts. The retailer/lessor is [permitted, but not] required to collect the sales tax from the customer/lessee. Every out-of-state retailer leasing or renting tangible personal property for storage, use or other consumption in this state is required to collect the use tax from the purchaser and remit the tax on gross lease or rental receipts to the Revenue Cabinet. The lessee's responsibility for the use tax is not relieved until payment of the amount due has been made to the Revenue Cabinet or to a retailer/lessor authorized to collect the Kentucky tax.

Section 2. Taxable Leases or Rentals. Leases and rentals of all kinds of tangible personal property, except motor vehicles and that property qualifying for exemptions provided in the sales and use tax law, are subject to the sales and use tax measured by the gross receipts derived from the lease or rental charge.

(1) Taxable leases or rentals include the following types of tangible personal property:

(a) Aircraft;
(b) Audio visual equipment;
(c) Beverage and food dispensing equipment;
(d) Bicycles;
(e) Boats, canoes, houseboats and sailboats;
(f) Bowling pinsetting equipment;
(g) Campers that are not registered motor vehicles;
(h) Camping equipment;
(i) Carpet and rug cleaning equipment;
(j) Construction equipment;
(k) Communications equipment;
(l) Computer hardware and software;
(m) Costumes;
(n) Formal wear;
(o) Garden and lawn equipment;
(p) Golf carts and clubs;
(q) Hospital equipment;
(r) Household appliances and furniture;
(s) Industrial equipment;
(t) Microphone and stage equipment;
(u) Musical instruments;
(v) Office machinery and equipment;
(w) Office trailers;
(x) Oxygen equipment;
(y) Party supplies;
(z) Physical therapy equipment;
(aa) Plants;
(bb) Portable buildings and sheds;
(cc) Portable toilets;
(dd) Riding horses, apparel and equipment;
(ee) Scaffolding;
(ff) Ski equipment;
(gg) Spraying equipment;
(hh) Telephones;
(ii) Televisions;
(jj) Tents;
(kk) Tools;
(ll) Video recorders and players;
(mm) Video tapes, cassettes and related items.

(2) The foregoing examples are for illustration and are not intended to be all inclusive. When lease or rental activity involves the lease or rental of real, tangible and intangible personal property, such as the lease or rental of a business operation or establishment, the total amount of the lease or rental receipts is subject to tax unless the amount applicable to the tangible personal property is separately stated. The amount separately stated for the tangible personal property cannot be less than the fair market lease or rental value for similar property for a similar rental or lease period. The lease or rental of tangible personal property between separate entities owned by the same or similar stockholders is subject to the tax unless otherwise exempted by the sales and use tax law. The tax is to be levied on the lease or rental amount charged or the fair market lease or rental amount, whichever is greater.

Section 3. Nontaxable Rentals or Leases. (1) The lease or rental of real property and the performance of a service do not represent the lease or rental of tangible personal property. Nontaxable receipts include but are not limited to the following:

(a) Charges made for the use of a miniature golf course or golf driving range;
(b) Charges made for the rental of safety deposit boxes;
(c) Charges made for laundering or dry cleaning of apparel owned by customers;
(d) Charges made for the use by individuals of coin operated laundry equipment;
(e) Charges made for the use of docks and docking facilities furnished for boats;
(f) Charges made for storage space in miniwarehouses;
(g) Charges made for the rental of parking spaces in parking lots or garages;
(h) Charges made for the lease or rental of office space or an office building;
(i) Charges made for the lease or rental of furnished and unfurnished apartments;
(j) Charges made for the rental of linens, uniforms, towels and diapers where recurring cleaning is the essence of the rental agreement;
(k) Charges made for the cleaning of wall-to-wall carpet;
(l) Charges made for lawn care service;
(m) Charges made for a construction contract for erecting, remodeling, or repairing a building or other structure;

(n) Charges made for equipment and an operator to perform certain work specified by the customer where the customer does not take possession or have any direction or control over the physical operation of the work to be performed;
(o) Charges made for aircraft charters available to the general public;
(p) Charges made for use by individuals of amusement machines such as video games, pinball machines, etc.;
(q) Charges made for the use of lockers;
(r) Charges made for the use of tanning beds;
(s) Charges made for computer time-sharing;
(t) Charges made for the furnishing of space on utility poles for the attachment of cable television, telephone and utility lines.
(2) The foregoing partial list of nontaxable receipts must not be construed to have application beyond the circumstances presented. For example, if an individual enters a business establishment and makes use of a video game machine by inserting twenty-five (25) cents, the receipts from the charge are not taxable. However, the person who is utilizing the video machine in the business operation may lease or rent outright the machine from another person engaged in the business of leasing or renting such property. In this example, the amount or amounts paid to the video game machine owner/lessor by the business enterprise which made the machine available for use by the individual would represent taxable receipts from the lease or rental of tangible personal property.

Section 4. Exemptions. A lessor of tangible personal property should not include within the measure of the tax gross receipts from a lease or rental if the lessor takes from the purchaser a certificate of exemption as evidence that the property purchased will be used in an exempt manner under the sales and use tax law. Sales and use tax exemptions for which the lessee may qualify include, for example, machinery for new and expanded industry, farm machinery, [and] tangible personal property leased for use by certain religious, charitable, and educational institutions, historical sites, and units of the federal government, Kentucky state government and local governments within this state, and motion picture films rented or leased by commercial motion picture theatres for the sole purpose of use in the normal course of business for which an admission fee is charged and the theatre collects and remits applicable taxes, including the sales tax applicable to admissions. When an out-of-state lessee leases tangible personal property from a Kentucky lessor for the purpose of using such property outside this state, and the property is, in fact, used outside this state, the initial lease payment will be subject to the Kentucky sales tax if the property is delivered to the lessee in this state and immediately taken outside this state for use. The initial lease payment may not be for an amount that is less than a proportionate amount of the total lease or rental payments to be made during the term of the agreement. In such cases, the lessor's records must clearly reflect the nature of the transaction. Should the property be returned to Kentucky, the receipts from use of the property in Kentucky are taxable. In the event the total amount of the lease is paid in a lump sum, the total amount would be subject to the Kentucky sales tax. The sales tax does not apply to gross receipts from leases or rentals in which the Kentucky lessor is obligated under the terms of the agreement with the lessee to make physical delivery of the property leased or rented from a point in this state to a point outside this state not to be returned to a point within this state for use provided that such delivery is actually made. The delivery may be made by the lessor's facilities or by common carrier. In the case of bona fide common carriers, the lease or rental of equipment which enters this state in actual use in interstate commerce and which is used exclusively in interstate commerce thereafter is not subject to tax. Nominal use in intrastate commerce will not affect this exception.

Section 5. Motor Vehicles. The lease or rental of motor vehicles which are registered for use on the public highways and upon which any applicable tax levied under KRS 138.460 has been paid, is not subject to the sales or use tax. The applicable tax is the motor vehicle usage tax administered by [the Motor Vehicle Usage Tax Section of] the Revenue Cabinet. Motor vehicles which are not subject to the motor vehicle usage tax are subject to the sales and use tax.

Section 6. Reciprocity. The sales and use tax law provides for credit against the [five (5) percent] Kentucky use tax for state sales tax paid in another state which imposes a sales tax substantially identical to Kentucky's, provided the other state has a sales and use tax reciprocity statute similar to Kentucky's. In the past, credit for sales and use tax paid in a state having a reciprocity statute similar to Kentucky's has been allowable when evidence was presented that the state sales or use tax was actually paid. In addition to this requirement, the taxing of lease and rental receipts necessitates additional requirements which have application only to lease and rental receipts. Reciprocity will apply to use tax due Kentucky on lease or rental receipts only if the reciprocal state has levied and is legally due the sales or use tax paid on lease or rental receipts derived from the storage, use or [of] other consumption of property in Kentucky.

Section 7. Construction Machinery and Equipment. Persons engaged in the business of leasing or renting construction machinery and equipment are retailers responsible for reporting and remitting the sales and use tax. However, should the lessor's receipts from the lease or rental of construction machinery and equipment be nontaxable, the provisions of KRS 139.320 will apply to lessees of construction machinery and equipment brought into Kentucky for use. KRS 139.320 levies a use tax on construction machinery and equipment brought into Kentucky for use in construction projects. This use tax, which is separate and distinct from the normal use tax (KRS 139.310), is levied, in the case of leased and rented machinery and equipment, upon the lessee based upon the lease or rental payments made to an out-of-state [out-of-town] lessor. [While the law change effective August 1, 1985 provides for an exemption for gross receipts from lease or rental agreements entered into prior to August 1, 1985 when the applicable sales or use tax was

paid on the purchase price of the property on or before August 20, 1985,] The provisions of KRS 139.320 will still apply to any lease or rental of construction machinery and equipment and is the responsibility of the lessee. When reciprocity requires the recognition of a tax credit against the tax levied under KRS 139.310 as set forth in Section 6 of this regulation, the provisions of KRS 139.320 will apply to rental or lease payments made for construction machinery and equipment and is the responsibility of the lessee. Kentucky law does not permit reciprocity against the use tax levied under KRS 139.320.

C. EMMETT CALVERT, Secretary
APPROVED BY AGENCY: August 14, 1990
FILED WITH LRC: August 15, 1990 at 9 a.m.

PUBLIC HEARING: A public hearing on this regulation will be held on September 27, 1990 at 10 a.m. in Room 406 of the Capitol Annex, Frankfort, Kentucky. Individuals interested in attending at this hearing shall notify this agency in writing by September 22, 1990, five days prior to hearing, of their intent to attend. If no notification of intent to attend the public hearing is received by that date, the hearing may be cancelled. The 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: Raymond L. Kring, Revenue Cabinet, Division of Tax Policy and Legal Services, New Capitol Annex Building, Frankfort, Kentucky 40620.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Raymond L. Kring

(1) Type and number of entities affected: All entities involved as lessors or lessees of tangible personal property would be affected. Potentially, this could affect all 93,136 retailers and 4,524 consumers registered with the Revenue Cabinet as well as all other lessees and possibly the general public paying to see motion pictures at commercial theatres. This potentially could include every individual and business in Kentucky. The proposed amendment reflects the deletion of obsolete provisions and makes changes mandated by 1990 legislation, i.e., the 6% tax rate pursuant to HB 940, the requirement for retailers to collect tax from consumers pursuant to HB 375, and the exemption for certain motion picture film rentals pursuant to HB 97.

(a) Direct and indirect costs or savings to those affected: There would be no costs or savings to those affected since the tax is required to be passed on to consumers. The exemption for certain motion picture films would save consumers an estimated $2 million annually.

1. First year: There would be no costs to those affected since the tax is required to be passed on to consumers. The exemption for certain motion picture films would save consumers an estimated $2 million annually.

2. Continuing costs or savings: There would be no costs to those affected since the tax is required to be passed on to consumers. The exemption for certain motion picture films would save consumers an estimated $2 million annually.

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

(b) Reporting and paperwork requirements: There would be no change from current reporting or paperwork requirements for affected lessors or lessees. However, motion picture theatres would no longer be required to include qualifying film rentals as subject to use tax on their periodic sales and use tax returns.

(2) Effects on the promulgating administrative body: There would be no change from current administrative requirements for the Revenue Cabinet.

(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: A state tax loss of an estimated $2 million annually will result from the HB 97 exemption of qualifying motion picture film rentals.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Except for the deletion of obsolete provisions, the proposed amendments to this regulation are specifically provided by 1990 legislation. Therefore, there were no alternatives available.

(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: 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: The proposed amendments simply delete obsolete language and incorporate applicable provisions of 1990 legislation contained in HB 97, HB 375 and HB 940.

TIERING: Was tiering applied? No. This regulation applies equally to all lessors and lessees of tangible personal property. There is no statutory authority to provide preferential treatment on the basis of size or other criteria.

REVENUE CABINET
Department of Administrative Services
(Proposed Amendment)

103 KAR 30:140. Energy and energy-producing fuels.

RELATES TO: KRS 139.480
STATUTORY AUTHORITY: KRS Chapter 13A, 131.130
NECESSITY AND FUNCTION: To define and clarify the exemption provided for energy and energy-producing fuels. To establish procedures for claiming the exemption and reporting taxable purchases.

Section 1. The sales and use tax does not apply to the sale, use, storage or other consumption of energy or energy-producing fuels used in the course of manufacturing, industrial processing, mining or refining to the extent that the cost of all energy or energy-producing

fuels used exceeds three (3) percent of the cost of production. The phrase "in the course of manufacturing, etc." as used in this regulation refers to those phases of a company's operations in which the expenses incurred are properly included in the computation of the cost of production. The cost of production must be computed on the basis of plant facilities. The term "plant facilities" means all permanent structures affixed to real property at one (1) location.

Section 2. The term "cost of production" as used in KRS 139.480(3) means the total of all costs, according to accepted accounting principles, incurred in manufacturing, producing, industrial processing, refining, mining, or fabricating of tangible personal property except for the cost of the energy or energy-producing fuels used therein. The following accounts or similar classifications normally will be reflected in the computation of the cost of production: direct materials, direct labor cost, overhead expenses; depreciation, plant equipment; insurance, plant equipment; taxes, plant equipment; rent or depreciation, plant building; compensation insurance; indirect materials; indirect labor; miscellaneous factory expenses; administrative expenses allocated to cost of production; office expenses allocated to cost of production.

Section 3. With respect to the allocation of administrative and office expenses to production, a considerable degree of flexibility exists within the scope of acceptable accounting practices. Therefore, no attempt is made to dictate specific requirements for the allocation of such expenses. However, all taxpayers claiming an exemption for energy or energy-producing fuels under KRS 139.480(3) are required to compute their cost of production on a basis consistent with sound accounting practices. Any significant deviations from procedures used in past periods which are based on considerations of sales tax reduction will not be permitted.

Section 4. Consumers of energy and energy-producing fuel who are entitled to an exemption under this regulation may apply to the Revenue Cabinet [department] for an "energy direct pay authorization" and upon issuance thereof by the cabinet [department] shall be responsible for the payment of taxes due under this regulation.

Section 5. The application for an energy direct pay authorization shall be made upon a form prescribed by the Revenue Cabinet. The applicant must set forth an itemization of the accounts included in the computation of cost of production based upon costs incurred in the last completed fiscal or calendar year ending prior to the date of the application. If the energy cost exceeds three (3) percent of the cost of production as defined herein, the taxpayer shall then estimate the tax by multiplying the cost of production by three (3) percent and then multiplying the resulting figure by six (6) [five (5)] percent. The taxpayer shall then be required to report and make monthly payments equal to one-twelfth (1/12) of the total estimated tax.

Section 6. Four (4) months after the end of each fiscal or calendar year ending subsequent to the date of the authorization, the taxpayer shall then file a return reconciling his estimate to the amount of tax due and either pay the additional tax due, or, if no additional tax is due, credit the overpayment on his next year's estimate or apply for a refund. At the same time, the taxpayer shall make his estimate for the succeeding year and adjust the payment for the months remaining so that the total tax to be paid for the year will agree with the total estimated tax. This estimate shall include the same information [hereinbefore] described in Section 5 of this regulation.

Section 7. An energy direct pay authorization may not be used for any purchases other than energy or energy-producing fuels used in the course of manufacturing, industrial processing, mining, or refining.

Section 8. An energy direct pay authorization will not be issued unless the cost of energy or energy-producing fuels during the immediately preceding year exceeds three (3) percent of the previous year's cost of production as herein defined or unless the taxpayer can show to the cabinet's [department's] satisfaction that such cost may reasonably be expected to exceed three (3) percent of their anticipated cost of production.

C. EMMETT CALVERT, Secretary
APPROVED BY AGENCY: August 14, 1990
FILED WITH LRC: August 15, 1990 at 9 a.m.
PUBLIC HEARING: A public hearing on this regulation will be held on September 28, 1990 at 10 a.m. in Room 406 of the Capitol Annex, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by September 23, 1990, five days prior to hearing, of their intent to attend. If no notification of intent to attend the public hearing is received by that date, the hearing may be cancelled. The 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: Raymond L. Kring, Revenue Cabinet, Division of Tax Policy and Legal Services, New Capitol Annex Building, Frankfort, Kentucky 40620.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Raymond L. Kring
(1) Type and number of entities affected: The only entities affected would be manufacturers, industrial processors and similarly classified entities which hold an energy direct pay authorization from the Revenue Cabinet because of their high energy cost in relation to total production cost. A total of 390 companies have been granted such authorization. The proposed amendment simply incorporates the tax rate change contained in HB 940 and makes several other minor changes for clarity.

(a) Direct and indirect costs or savings to those affected: There would be no costs or savings to these entities which are affected.
1. First year: There would be no costs or savings to these entities which are affected.
2. Continuing costs or savings: There would be no costs or savings to these entities which are affected.
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: There would be no change from current reporting or paperwork requirements.
(2) Effects on the promulgating administrative body: There would be no change from current administrative requirements for the Revenue Cabinet.
(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: Since the proposed amendment regarding the tax rate is specifically provided by 1990 legislation, there were no alternative methods available.
(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: 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: The proposed amendment regarding the tax rate results from the provisions of HB 940.
TIERING: Was tiering applied? No. This regulation applies to all manufacturers, industrial processers and similarly classified entities. There is no statutory authority to provide preferential treatment on the basis of size or other criteria.

REVENUE CABINET
Department of Administrative Services
(Proposed Amendment)

103 KAR 30:200. Occasional sales; sale of a business.

RELATES TO: KRS 139.070, 139.100, 139.110, 139.120, 139.240, 139.410, 139.470, 139.670, 139.680
STATUTORY AUTHORITY: KRS Chapter 13A, 131.130
NECESSITY AND FUNCTION: To interpret the sales and use tax law as it applies to occasional sales and sales of business assets.

Section 1. The tax applies to all retail sales of tangible personal property held or used by the seller in the course of any selling activity for which a seller's permit is required. The tax applies to that portion of the gross receipts from the sale of an entire business that represents the [that] fair retail value of tangible personal property held or used in the course of an activity for which the seller is required to hold a seller's permit and acquired by the purchaser for use rather than for resale. For example, a retailer who is engaged in the business of selling shoes must include in "gross receipts" the proceeds from the sale of any fixtures or equipment used by him in the course of selling his merchandise. The tax does not apply, however, with respect to tangible personal property such as stock in trade, sold for the purpose of resale in the regular course of the purchaser's business.

Section 2. The tax does not apply to a sale of property not held or used in the course of a selling activity unless the sale is one of a series of sales sufficient in number, scope and character to require the holding of a seller's permit. This exempts from the sales tax only, the sale of business assets that were held or used in a separate and distinct activity for which the seller was not required to hold a seller's permit. However, when "a sufficient number of sales" as contemplated in KRS 139.070 has occurred, tangible personal property previously considered to be nonselling activity assets then becomes subject to tax at the time of sale. KRS 139.110 defines a retailer to include every person making more than two (2) retail sales during any twelve (12) month period. Thus, where a person makes within a twelve (12) month period more than two (2) retail sales of property previously used in an activity for which a seller's permit was not required, that person has established himself as a retailer of such property within the measure of the tax. It is important to note that once a person has established himself as a retailer of nonselling activity assets, all subsequent sales of such property are subject to tax even though less than three (3) sales may occur within any twelve (12) month period.

Section 3. The tax does not apply to transfers of all or substantially all the property held or used in the course of an activity for which a seller's permit is required, provided that after the transfer the real or ultimate ownership of the property is substantially unchanged. Stockholders, bondholders, partners, or other persons holding an interest in the corporation or other entity are regarded as having the "real or ultimate ownership" of the property of the corporation or other entity.

Section 4. Listed below are examples of taxable and nontaxable situations which may be encountered in the sale of business assets:
(1) Taxable.
(a) The sale of business assets used in the operation of a motel or hotel and selling activities involving the sale of all types of merchandise, taxable services or admissions.
(b) In the case of a manufacturer, the tax will apply to sales of manufacturing assets where more than two (2) retail sales of manufacturing assets have occurred within a twelve (12) month period. Assets used by the manufacturer in selling his product are subject to tax regardless of the number of sales.
(c) In the case of a contractor, a person who normally is not engaged in a selling activity requiring the holding of a seller's permit, sales of construction equipment are subject to tax where more than two (2) retail sales have occurred within a twelve (12) month period.
(d) The exchange of the capital stock of one (1) corporation for the assets of another

corporation is considered a taxable transaction provided the assets involved are not the subject of an "occasional sale."

(2) Nontaxable.

(a) The sale (less than three (3) sales within a twelve (12) month period) of assets used in an activity not requiring the holding of a seller's permit (such as a sale of manufacturing assets).

(b) Any sale involving the acquisition of capital stock in a corporation where the consideration received is in the form of intangible property (such as cash or stock).

(c) The exchange of capital stock of a corporation for the assets of a proprietorship provided the former owner-proprietor owns a majority interest in the corporation after such exchange.

Section 5. Purchasers of a business may become personally liable for the sales tax liability of a seller by failing to comply with the special requirements imposed upon such purchasers by KRS 139.670 and 139.680 [certain provisions of the sales and use tax law. See 103 KAR 31:150 for the specific requirements of the purchaser].

C. EMMETT CALVERT, Secretary

APPROVED BY AGENCY: August 14, 1990

FILED WITH LRC: August 15, 1990 at 9 a.m.

PUBLIC HEARING: A public hearing on this regulation will be held on September 28, 1990 at 2 p.m. in Room 406 of the Capitol Annex, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by September 23, 1990, five days prior to hearing, of their intent to attend. If no notification of intent to attend the public hearing is received by that date, the hearing may be cancelled. The 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: Raymond L. Kring, Revenue Cabinet, Division of Tax Policy and Legal Services, New Capitol Annex Building, Frankfort, Kentucky 40620.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Raymond L. Kring

(1) Type and number of entities affected: The only entities affected would be those making occasional sales, including the sale of a business. The number of businesses sold varies from year to year and any person making an isolated sale not involving a business could be affected. The proposed amendment simply substitutes a specific statutory reference for a reference to an expired regulation on the subject.

(a) Direct and indirect costs or savings to those affected: There would be no costs or savings to those affected since the amendment, in effect, simply continues the current treatment of occasional sales, including the sale of a business.

1. First year: There would be no costs or savings to those affected since the amendment, in effect, simply continues the current treatment of occasional sales, including the sale of a business.

2. Continuing costs or savings: There would be no costs or savings to those affected since the amendment, in effect, simply continues the current treatment of occasional sales, including the sale of a business.

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

(b) Reporting and paperwork requirements: There would be no change from current reporting or paperwork requirements for affected persons and businesses.

(2) Effects on the promulgating administrative body: There would be no change from current administrative requirements for the Revenue Cabinet.

(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: There would be no change in current reporting and paperwork requirements.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: Since the proposed amendment to this regulation is to substitute a statutory reference for a reference to an expired regulation, there were no alternative methods available.

(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: 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: The proposed amendment simply substitutes a specific statutory reference for a reference to an expired regulation.

TIERING: Was tiering applied? No. This regulation applies to all persons making occasional sales, including the sale of a business. There is no statutory authority to provide preferential treatment on the basis of size or other criteria.

REVENUE CABINET
Department of Administrative Services
(Proposed Amendment)

103 KAR 31:080. Coupons or redemption certificates.

RELATES TO: KRS 139.050, 139.080, 139.090, 139.100, 139.110, 139.130, 139.210

STATUTORY AUTHORITY: KRS Chapter 13A, 131.130

NECESSITY AND FUNCTION: To interpret the sales and use tax law as it applies to coupons and redemption certificates.

Section 1. Definition. As used in this regulation, a coupon or redemption certificate (excluding premium or trading stamps) means a certificate in writing vesting in a customer upon the purchase of certain tangible personal property the right to a reduction in the sales price of the property.

Section 2. A retailer shall include within his gross receipts the exchange value of coupons or redemption certificates taken from his customers if the retailer redeems such certificates from his wholesaler or other person. The exchange value shall be included in gross receipts under either of the following methods:

(1) The retailer may include the exchange value in his gross receipts for the period during which the coupons or redemption certificates were taken from his customers; or

(2) The retailer may include the exchange value in his gross receipts for the period during which the coupons or redemption certificates are redeemed from his wholesaler or other person.

(3) In either event the retailer shall [may] collect from customers the tax applicable to the coupon or redemption certificate exchange value.

Section 3. The exchange value of coupons or redemption certificates issued by the retailer (and not by his wholesaler or other person) and which are taken by the retailer from his customers are "cash discounts" and will not be included in the retailer's gross receipts. The retailer shall [may] not collect tax from customers on the exchange value of such coupons or redemption certificates.

Section 4. Coupons or redemption certificates which represent combinations of those described in Sections 2 and 3 of this regulation shall be taxable on that portion of the coupon or redemption certificate value which may be redeemed from the retailer's wholesaler or other person. The "cash discount" portion of such coupons or redemption certificates is not subject to tax.

C. EMMETT CALVERT, Secretary
APPROVED BY AGENCY: August 14, 1990
FILED WITH LRC: August 15, 1990 at 9 a.m.

PUBLIC HEARING: A public hearing on this regulation will be held on September 21, 1990 at 2 p.m. in Room 406 of the Capitol Annex, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by September 16, 1990, five days prior to hearing, of their intent to attend. If no notification of intent to attend the public hearing is received by that date, the hearing may be cancelled. The 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: Raymond L. Kring, Revenue Cabinet, Division of Tax Policy and Legal Services, New Capitol Annex Building, Frankfort, Kentucky 40620.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Raymond L. Kring

(1) Type and number of entities affected: The entities affected are all retailers accepting coupons or redemption certificates from consumers. This potentially could include all 93,136 retailers registered with the Revenue Cabinet. The proposed amendment simply reflects the requirements for retailers to collect the tax from consumers as provided in HB 371. Previously retailers could absorb the tax although few did so.

(a) Direct and indirect costs or savings to those affected: There would be no costs or savings to those affected. For those few retailers who previously absorbed the tax, the sales price would undoubtedly be lowered to reflect a price without tax so that when the required tax is added, there would be no actual change in the net price to the consumer.

1. First year: There would be no costs or savings to those affected. For those few retailers who previously absorbed the tax, the sales price would undoubtedly be lowered to reflect a price without tax so that when the required tax is added, there would be no actual change in the net price to the consumer.

2. Continuing costs or savings: There would be no costs or savings to those affected. For those few retailers who previously absorbed the tax, the sales price would undoubtedly be lowered to reflect a price without tax so that when the required tax is added, there would be no actual change in the net price to the consumer.

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

(b) Reporting and paperwork requirements: There would be no change from current reporting or paperwork requirements for retailers.

(2) Effects on the promulgating administrative body: There would be no change from current administrative requirements for the Revenue Cabinet.

(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: Since the proposed amendment to this regulation is specifically provided by 1990 legislation, there were no alternative methods available.

(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: 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: The proposed amendment simply incorporates the applicable provisions of 1990 legislation contained in HB 375.

TIERING: Was tiering applied? No. This regulation applies equally to all retailers. There is no statutory authority to provide preferential treatment on the basis of size or other criteria.

GENERAL GOVERNMENT CABINET
Kentucky Board of Barbering
(Proposed Amendment)

201 KAR 14:100. School advertising.

RELATES TO: KRS 317.410, 317.440, 317.450
STATUTORY AUTHORITY: KRS 317.430, 317.440
NECESSITY AND FUNCTION: School advertising.

Section 1. Schools shall not advertise by any means that are knowingly false such as by the use of deceptive statements and false promises which act as inducements in an effort to get the students to enter said schools.

[Section 2. No prices for services rendered to patrons shall be advertised in newspapers or in the form of handbills, etc., outside the school.]

Section 2. [3.] Student equipment and books may, or may not, be supplied by the students, depending upon each individual school, but school advertisements must show what is to be furnished to the students.

Section 3. [4.] A school of barbering must display in the reception room and in the work room a sign to read "School of Barbering - Work Done Exclusively by Students." The letters on this sign must be large enough to be read from the opposite end of the room.

Section 4. [5.] No school is permitted to advertise professional work or guarantee students' work.

Section 5. [6.] A school is allowed to advertise under the description of a school operating for teaching purposes only.

Section 6. [7.] Schools are forbidden to advertise positions or guarantee future employment to students.

DOUGLAS CLAPPER, Administrator
APPROVED BY AGENCY: July 5, 1990
FILED WITH LRC: July 23, 1990 at 11 a.m.
PUBLIC HEARING: A public hearing on these proposed regulations will be held on September 21, 1990 at the hour of 8:30 a.m. at the offices of the Kentucky Board of Barbering, 400 Sherburn Lane, Suite 405, Louisville, Kentucky 40207. Any person interested in commenting on these regulations at that hearing should contact Mr. Douglas Clapper, Administrator, Kentucky Board of Barbering, 400 Sherburn Lane, Suite 405, Louisville, Kentucky 40207 in writing by September 16, 1990.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Douglas Clapper
(1) Type and number of entities affected: 1,300 barbershop owners and 250 apprentices.
(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: Minimal
(3) Assessment of anticipated effect on state and local revenues: Minimal
(4) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable, this is merely a clarification of current statute and practice.
(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? Tiering was not applied because there is only one class of person to which the regulation applies.

GENERAL GOVERNMENT CABINET
Kentucky Board of Barbering
(Proposed Amendment)

201 KAR 14:130. School fees for services.

RELATES TO: KRS 317.410, 317.440
STATUTORY AUTHORITY: KRS 317.430, 317.440
NECESSITY AND FUNCTION: This regulation establishes school fees and services.

Section 1. A copy of such prices must be posted on a card in each room of the barber school where work is done on the public. Price lists must be printed in type large enough to be read at a distance of ten (10) feet.

[Section 2. A barber school is not permitted to operate as a barber shop. A list of services and prices charged shall be submitted to the board for approval. The board shall have the right to approve or disapprove the submitted price list.]

Section 2. [3.] Barber 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.

DOUGLAS CLAPPER, Administrator
APPROVED BY AGENCY: July 5, 1990
FILED WITH LRC: July 23, 1990 at 11 a.m.
PUBLIC HEARING: A public hearing on these proposed regulations will be held on September 21, 1990 at the hour of 8:30 a.m. at the offices of the Kentucky Board of Barbering, 400 Sherburn Lane, Suite 405, Louisville, Kentucky 40207. Any person interested in commenting on these regulations at that hearing should contact Mr. Douglas Clapper, Administrator, Kentucky Board of Barbering, 400 Sherburn Lane, Suite 405, Louisville, Kentucky 40207 in writing by September 16, 1990.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Douglas Clapper
(1) Type and number of entities affected: 1,300 barbershop owners and 250 apprentices.
(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: Minimal
(3) Assessment of anticipated effect on state and local revenues: Minimal
(4) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable, this is merely a clarification of current statute and practice.
(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? Tiering was not applied because there is only one class of person to which the regulation applies.

GENERAL GOVERNMENT CABINET
Kentucky Board of Barbering
(Proposed Amendment)

201 KAR 14:140. School license.

RELATES TO: KRS 317.440, 317.450
STATUTORY AUTHORITY: KRS 317.410, 317.430, 317.440
NECESSITY AND FUNCTION: This regulation sets forth rules for licensing a barber school.

Section 1. Each person making application for a license to operate a barber school is required to submit to the board satisfactory evidence as to the financial responsibility and character of the persons interested in operating such a school; literature and advertising material pertaining to the school; samples of each form of record used to conduct the business of the school, including progress reports, hour sheets, and "sign-in" sheets; and a copy of the contract with the student and term or lease.

Section 2. Application for license to operate a school of barbering must be accompanied by a floor plan of proposed premises, showing the arrangements of the classroom, the placing of equipment, the location of gas and electric outlets, and the entrance and exits.

Section 3. A license to operate a barber school is valid only for the location named in the license and is not transferable.

[Section 4. Barber schools shall not be permitted to operate any other business in connection with the school and if a school does operate a business after being licensed, the license shall be revoked as provided in KRS Chapter 317.]

Section 4. [5.] Any person, establishment, firm or corporation which accepts, directly or indirectly, compensation for teaching persons as defined in KRS 317.410 shall be classified as a barber school and will be required to comply with all the provisions of the laws and the rules and regulations of the board.

Section 5. [6.] A copy of the laws and regulations concerning the licensing of barbers must be available to all students.

Section 6. [7.] Any barber school owner or manager found guilty by the board of willfully or fraudulently misrepresenting facts to the board concerning any information regarding his or her school, will have their license to operate a barber school revoked as provided in KRS Chapter 317.

DOUGLAS CLAPPER, Administrator
APPROVED BY AGENCY: July 5, 1990
FILED WITH LRC: July 23, 1990 at 11 a.m.
PUBLIC HEARING: A public hearing on these proposed regulations will be held on September 21, 1990 at the hour of 8:30 a.m. at the offices of the Kentucky Board of Barbering, 400 Sherburn Lane, Suite 405, Louisville, Kentucky 40207. Any person interested in commenting on these regulations at that hearing should contact Mr. Douglas Clapper, Administrator, Kentucky Board of Barbering, 400 Sherburn Lane, Suite 405, Louisville, Kentucky 40207 in writing by September 16, 1990.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Douglas Clapper
(1) Type and number of entities affected: 1,300 barbershop owners and 250 apprentices.
(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: Minimal
(3) Assessment of anticipated effect on state and local revenues: Minimal
(4) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable, this is merely a clarification of current statute and practice.
(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? Tiering was not applied because there is only one class of person to which the regulation applies.

GENERAL GOVERNMENT CABINET
Board of Physical Therapy
(Proposed Amendment)

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

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

Section 1. Any candidate for licensure by examination shall first satisfy all application requirements, including payment of applicable fees. The initial application fee covers the first scheduled examination. The cost of the examination to the board plus an administrative fee of forty-seven (47) dollars and fifty (50) cents shall be paid by the applicant for reexamination or for an examination which was obtained by the board upon application by a candidate but was not used or completed by the candidate. [The fee for application for licensure by examination is established in 201 KAR 22:135.] Upon approval as a candidate by the board, the candidate for licensure by examination shall be notified of the date, place and time of the examination to be held at the time and location set by the board.
(1) The board shall administer the Assessment Systems, Incorporated (ASI) examination to those [qualified] candidates permitted to sit for the examination. Other examinations as determined by the board may be administered in lieu of, or in addition to the ASI examination.
(2) An examination candidate may make a written request to the board to be granted a one (1) time exemption from taking their scheduled examination due to an undue hardship. If the request is granted, the candidate may continue to practice until the next regularly scheduled examination.

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

Section 3. A temporary permit requires that the physical therapist applicant shall work only under the supervision of a physical therapist licensed and practicing in Kentucky. Supervision requires the responsible therapist to be available and accessible by telecommunications at all times during the working hours of the person with a temporary permit. The supervising therapist shall be responsible for the direction of the actions of the person supervised when services are performed by the person with a temporary permit including cosigning all evaluations and physical therapy recordings within fourteen (14) days. The date of the record review shall be noted. The board may issue a temporary permit only to:
(1) Graduates who have applied for licensure by examination, have met all requirements and are sitting for the next examination or who have taken that examination and have not yet been notified of the results.
(2) Foreign-trained physical therapist applicants who have met all requirements for licensure application and paid all fees provided for in KRS 327.060(2), except that the applicant has not yet taken the ASI examination or has not yet begun or completed one (1) year of board approved, supervised employment as a physical therapist.
(3) Graduates who have applied for licensure by ASI examination in another state and who have met all requirements for Kentucky application but who have not yet taken or been notified of the results of that examination.

Section 4. The following candidates are not eligible to practice as a physical therapist in any manner in Kentucky until they have successfully completed the board approved examination in this or another state:
(1) A person who has failed the ASI examination in this or another state or country.
(2) A person who had qualified as an examination candidate but who did not sit for [failed to take] or complete the scheduled examination; and
(3) An endorsement candidate whose PES or ASI examination results do not meet Kentucky's requirements.
[To be examined, or reexamined in Kentucky, any candidate listed above must have applied for licensure by examination and have met all application requirements, including payment of the applicable fee. The original application fee covers the first scheduled examination. The cost of the examination to the board plus an administrative fee of forty-seven (47) dollars and fifty (50) cents shall be paid by the applicant for reexamination or for an examination not taken or not completed.]

Section 5. Candidates examined by boards of other states and territories before July 7, 1989 shall have registered their PES scores with the Interstate Reporting Service of the Professional Examination Service. Candidates examined in another jurisdiction after July 7, 1989 shall arrange with the Professional Reporting Service (PRS) of Assessment Systems, Incorporated to have their examination results submitted to the board. The applicable service shall furnish the candidate's examination results to the board, to include for each part and the total examination:
(1) The number of questions asked;
(2) The number of questions answered correctly;

(3) The national average raw score; and
(4) The converted score, calculated using a minus one and five-tenths (-1.5) standard deviation below the national average raw score. [then calculate the applicant's scores to meet Kentucky board requirements and submit the same to this board for consideration of licensure.]

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

Section 7. The candidate for licensure through reinstatement may receive renewal of his license without further examination upon requesting reinstatement, furnishing all information required of a license renewal applicant in 201 KAR 22:040, payment of the reinstatement fee established in 201 KAR 22:135. Therapists who have not been licensed for three (3) years shall, in addition, be required to show evidence of professional competency, and provide verification that any license to practice in another state has not been disciplined or is not under current disciplinary review. Reinstatement of the candidate will be at the board's discretion after evaluation of said evidence.

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

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

KAREN CRONIN, Chairman
APPROVED BY AGENCY: July 20, 1990
FILED WITH LRC: August 15, 1990 at 9 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 21, 1990 at 10 a.m. at the Board Office, 400 Sherburn Lane, Suite 248, Louisville, Kentucky 40207. Individuals interested in attending this hearing shall notify this agency in writing by September 16, 1990, five days prior to 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. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Mrs. Nancy Brinly, Executive Secretary, Kentucky State Board of Physical Therapy, The Mall Office Center, 400 Sherburn Lane, Suite 248, Louisville, Kentucky 40207-4215.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Nancy Brinly
(1) Type and number of entities affected: Possibly 2-3 examination candidates per year.
(a) Direct and indirect costs or savings to those affected:
1. First year: Save amount of salary which would have been lost without exception for "undue hardship" (4 months salary).
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A
(b) Reporting and paperwork requirements: Written request for exemption which documents "undue hardship" will be required.
(2) Effects on the promulgating administrative body: Not significant.
(a) Direct and indirect costs or savings: No particular change.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: Negligible
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: None identified.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: The board determined that there should be an exception stated which could allow the board to extend the temporary permit for an examinee who experiences problems sitting for his scheduled exam. Exam passing score changed from passing each of 3 parts to overall (total) passing; to coincide with change by examining company to a (1) part exam. Other amendments made for clarity.
TIERING: Was tiering applied? No. All physical therapists and physical therapist's assistants are treated uniformly under the law.

GENERAL GOVERNMENT CABINET
Department of Agriculture
(Proposed Amendment)

302 KAR 15:010. Administration; state aid to local fairs.

RELATES TO: KRS 247.220
STATUTORY AUTHORITY: KRS 247.220
NECESSITY AND FUNCTION: Provides rules and regulations by which the state aid to local fairs program must be administered. It explains to the Department of Agriculture, Division of Shows and Fairs, and to the local fairs their responsibilities in the program.

Section 1. General Administration. (1) The Director of the Division of Shows and Fairs in the Department of Agriculture shall only make premium allocations to the authorized agent of an incorporated local fair board that conducts a qualified local agricultural fair in compliance with KRS 247.220.

(2) Local fair boards applying for state funds shall see that a reasonable effort is made by local fair officials to develop a program that will supplement agricultural educational and promotional activities that coincide with the objectives of agencies officially charged with these responsibilities.

(3) Local fair boards seeking state assistance shall plan and conduct a qualified local agricultural fair with educational exhibits running for at least three (3) consecutive days (thirty-six (36) hours of exhibition). All fair events must be held on consecutive days with the following exceptions:

(a) Fairs may be closed on Sundays, if the local board desires; and

(b) Fairs may conduct certain events, such as harness horse racing, on separate dates providing the local board files a request to do so with the Division of Shows and Fairs [by April 1] and that request is approved by the Kentucky Fair Council at the next regular meeting and thereafter transmitted to the Commissioner of Agriculture with a recommendation by the Kentucky Fair Council that the Commissioner of Agriculture approve[d] or reject[ed] the local board's request.

(4) Local boards shall establish premiums related to the economic importance of the commodity in the area, the relative value of the exhibit and the difficulty in preparing for and showing the entry. Local boards shall [should] establish classes based upon the Department of Agriculture's "Uniform Classes" booklet since no divisions other than these set up by this booklet will qualify for aid, but within each division, deviation will be accepted provided the additional classes are based on the participation in that area.

(5) State funds shall be limited to crops, foods, domestic livestock, poultry, 4-H, FFA and FHA projects, harness horse racing and other horse events, provided they have a good potential for profitable expansion or the improvement of the agriculture economy of the area.

(6) Ribbon colors used at each local fair shall coincide with those adopted by the International Association of Fairs.

(7) Fair boards seeking state funds shall provide adequate health facilities for exhibitors tending exhibits and for fair attendants.

(8) Fair events held at a location other than the fairgrounds may qualify for aid if such an event is held during corresponding consecutive dates with the fair and publicized in the fair's catalog as being a fair event.

Section 2. Records. (1) Requests for state assistance shall be made annually on appropriate forms and mailed to the Division of Shows and Fairs by March 1. The Commissioner of Agriculture shall have the authority to allow a fair to enter the program after the application deadline has passed.

(2) An appropriate information form concerning the fair's beef, [and] dairy, and sheep shows shall be mailed to the Division of Shows and Fairs by May 1.

(3) Fairs shall submit a rough copy of their catalog to the Division of Shows and Fairs at least [from] forty-five (45) [to sixty (60)] days before their fair. This shall include the same information required in the printed catalog, excluding advertisements. A printed copy of the fair's catalog shall [must] be submitted no later than thirty (30) days before the start of the fair. No [first] payment [on agriculture premiums and harness racing] can be made before the printed catalog is received by the Division of Shows and Fairs.

(4) A complete financial statement for events previously requesting state funds shall be submitted to the Department of Agriculture prior to the second [final] fair payment, this payment including the second agricultural premium payment, the second harness racing payment and the payment for horse events. This annual financial statement shall cover all crops, foods, domestic livestock, poultry, harness horse racing, other horse events and other agricultural classes that may qualify for aid. It shall be complete and prepared in detail showing receipts and disbursements as well as number [a list] of exhibitors and [cash] premiums awarded by fair departments. This certified, notarized statement shall be presented to the Director of the Division of Shows and Fairs within forty-five (45) days following the event and no statement will be accepted for payment after December 1.

Section 3. Entries. (1) Fairs qualifying for state funds shall provide for adult and youth divisions. Youth exhibits shall include 4-H, [and] FFA, FHA and may include other official youth groups recognized by the fair council [extension service or vocational agriculture]. All projects approved by these official groups may be approved for state funds. Fair boards may restrict youth participation to a particular district, county or trade area.

(2) All exhibitors, adult and youth, shall have equal opportunity to enter open classes.

(3) Local fair boards receiving state money shall see that exhibits eligible in more than one (1) class and/or section are exhibited only in the class and/or section for which it best qualifies. Under no circumstances may an exhibitor show the same kind of animal or the same entry in both FFA and 4-H classes or in classes for other organized junior organizations.

(4) No more than two (2) exhibits shall be made from a household in any one (1) class with the exception of official 4-H or FFA projects and where purebred animals are registered to

other members of the household.

(5) All crop, domestic livestock and horse entries receiving state premium money shall conform to official show classifications adopted by the state's Fair Council, and comply with the State Board of Agriculture and the Department of Agriculture regulations. The age classification of all domestic livestock shall be listed in the official fair catalog and all classes shall conform to the standards recommended by the various breed associations. Dairy cattle classes shall conform to the standards recommended by the Kentucky Purebred Dairy Cattle Association. English horse classes must comply with regulations recommended by the American Horse Show Association. A western bred show must comply with the regulations set by that specific breed and open western horse classes shall [should] comply with the regulations set by the American Quarter Horse Show Association. Classes with less than three (3) entries each may be combined for show purposes.

(6) All domestic livestock, poultry, and horse entries shall meet the specifications of the health regulations of the State Board of Agriculture relating to the exhibition of livestock in Kentucky.

Section 4. Catalog. (1) All qualified fairs shall have an official fair catalog. A rough copy of the catalog including premium lists and classes, excluding advertisements, shall be submitted to be approved by the Division of Shows and Fairs at least forty-five (45) [to sixty (60)] days prior to the opening of the fair. The finished catalog shall be submitted to the Director of the Department of Agriculture's Division of Shows and Fairs no later than thirty (30) days before the fair is held.

(2) Classes advertised in the catalog shall be reviewed annually by the local fair board to make certain that competitive events are being held and that premiums offered are not out of balance with entries.

(3) The official fair catalog shall contain the following information:

(a) The fair is "planned and conducted according to the Department of Agriculture regulations for the use of state funds."

(b) A list of fair officials and their assigned responsibilities with the following organizations being represented on the agriculture advisory board:

1. Vocational Agriculture.
2. Extension Service.
3. Farm Bureau.
4. Local Livestock Association (if one exists).
5. Local Horsemen's Association (if one exists).

(c) A schedule of events planned as a part of the fair.

(d) Local fair rules and regulations including a statement to the effect that "open classes are open to all exhibitors unless otherwise specified."

(e) General information and regulations by fair departments showing classes and premium lists.

(f) Health regulations by types of livestock to be exhibited.

(g) A rule to the effect that "entries made in 4-H, FFA and FHA classes must have been produced in conjunction with an approved project sponsored by these organizations."

(4) Catalogs shall be mailed and distributed by the local fair board no later than thirty (30) days prior to the opening of the fair.

Section 5. Judges. (1) To assist with the educational objectives of each event, judges shall be encouraged to present reasons for their evaluations and decisions.

(2) No person shall be an exhibitor or act as an agent in any division or department for which he serves as a judge.

Section 6. State Allocation. (1) The Department of Agriculture's agricultural premium money shall be allocated to all approved local fairs on the basis of total money offered for approved classes in the catalog and total money spent in approved classes taken from the fair's financial statement available as indicated by fair records including catalogs. In no instance shall the total agricultural premium payment for one (1) or more fairs held annually in a single county exceed $4,000 [3,000]. In addition, state money for each class shall not exceed fifty (50) percent of the total premiums awarded. Premiums established for a carcass class, a class for performance tested beef animals or a dairy production class based on dairy herd improvement records may [shall] be excluded from the match-fund limitations and may be paid entirely with state funds; provided this payment does not cause the fair to receive more than the $4,000 [3,000] limit. Local fair officials shall start only one (1) of these classes at a time and the second and third choice shall not be made until each of these classes is effectively developed. [When total premium money available for state approved fair departments and classes at all approved fairs exceeds the state appropriation for premiums, the state's fair council shall meet and recommend to the Commissioner of Agriculture which payments shall be reduced.] The first agricultural premium payment to each fair will be made after the printed catalog is received and will be up to one-fourth (1/4) of the amount of money offered in approved classes by the local fair up to a maximum of $2,000 [1,500]. The second agricultural premium [fair] payment will be made after the fair's financial statement is received provided all remaining requirements have been met and the necessary records submitted, and will be based on the amount of money paid for premiums and awards [out] in approved agricultural classes up to a maximum of $4,000 [3,000] less the amount of the first agricultural premium payment. The combination of county fairs or community fairs of a number of counties shall not be approved to justify a larger state premium payment.

(2) An additional $1,500 [1,000] grant may be made to a qualified local agricultural fair to be used for horse events' premiums and awards. This grant is on an equal matching fund basis and is based completely on the amount of money paid in premiums and awards for horse events' classes. The payment of this grant will come after the financial statement of the fair is received by the Department of Agriculture and will be included in [with] the fair's second fair [agricultural] payment. The qualified fair must submit with its financial statement, records of premiums paid, number of exhibitors, and number of entries for these horse events.

(3) The Department of Agriculture shall make available to a qualified agriculture fair, an additional $5,000 on an equal matching basis for

harness horse racing, with a maximum of $750 per race being matched by the department. To qualify, a fair must meet the regulations and specifications set up by the United States Trotters Association, Kentucky Harness Racing Association and the Department of Agriculture. Harness racing payments will also be disbursed in two (2) payments, the first being one-fourth (1/4) the amount of purses offered in the printed catalog, up to a maximum of $2,500. This payment shall be combined with the fair's first agricultural payment. The second harness racing payment [remainder] will be based on the amount of money spent in harness racing purses, up to a maximum of $5,000 less the first harness racing payment, and will be included in [made at the time of] the second fair [agricultural premium] payment, providing the fair has included sufficient information on their financial statement in regard to the harness racing results.

(4) When the Department of Agriculture provides the total cost of premiums for a carcass class, a class for performance tested beef animals, or a dairy production class, all classes, rules, and facilities for the respective contest must be approved by the department. Carcass evaluations for meat animals shall be conducted in accordance with standards recommended by the Reciprocal Meats Conference and approved by the Meats Section of the University of Kentucky. Carcass contests financed by state funds shall be conducted in adequate facilities and they should permit spectators to view the carcasses and receive the full educational opportunity. Contest rules for local fairs shall specify that purebred animals and grades will show together. Carcass contests or production or performance classes that will make the greatest contribution to the agriculture of an area and that have the necessary facilities available for their effective operation shall be chosen by fair officials.

(5) The director of the department's show and fair program shall provide from the appropriation for county fairs an attractive trophy that will be rotated and engraved and presented annually to the local fair that had made the most progress in twelve (12) months. In addition, appropriate engraved plaques shall be presented to the first, second, and third placed fairs making the most progress in the twelve (12) months period and also for the most outstanding new fair in the program for that year. The presentation shall be made by the Department of Agriculture's Fair Council based on records submitted to the department and substantiated by other evidence.

Section 7. Building Program. (1) [In accordance with KRS 247.220,] A qualified local agricultural fair can make application [qualify] for an additional $3,000 [2,000] grant of state funds to be used for the establishment of new buildings and facilities or for improvement to existing facilities. Applications for the building program are due in the Division of Shows and Fairs' office no later than June 1 of the year that the work is to be completed, and it must be preceded by a request for state aid application. Such grants shall be on an equal matching basis with the local fair board matching the amount of the state grant. In no event shall the payment for facilities result in a decrease in the approved agricultural classes or premiums being offered in the fair catalog.

(2) The buildings and facilities must be used primarily in conjunction with the qualified local agricultural fair and must either be constructed on land owned by the local fair board or on land that the fair group holds a renewable lease.

(a) Some suggested items that may qualify are:

1. The purchase of land for a fairground or the purchase of land adjoining the original grounds.
2. The construction of new buildings.
3. Repair of any existing facilities on the fairgrounds.
4. Grandstands or bleachers used to seat people during the fair.
5. Grading and improvement work done to an existing track or show ring.
6. Loading chutes, wash racks or tie-outs for livestock.

(b) Other items not listed above may qualify for state assistance provided the local fair provides evidence to the Department of Agriculture that the item meets the minimum requirements and is justifiable.

(3) Applying for state assistance. Application for state assistance must be made in writing by the qualified local agricultural fair to the Division of Shows and Fairs, Department of Agriculture, by June 1 of the year that the work is to be completed. The application should include a description of the proposed buildings or improvements to be made, use to be made of these improvements, itemized list of approximate cost, and the date to be completed. Application forms will be available from the Department of Agriculture, Division of Shows and Fairs, and will be distributed after fair program applications are received or upon request.

(4) Financial report of building program. Upon acceptance of qualified local fair's request for assistance by the Department of Agriculture, the local fair will be supplied a financial report form. The financial report should contain a description of the buildings or improvements and an itemized cost of the same. This notarized report shall be presented to the Division of Shows and Fairs within forty-five (45) days following the completion of the building or repair work. No report will be accepted for payment after December 1.

(5) When building program payments will be made. Building program payments will be disbursed in two (2) payments, with the first payment representing one-fourth (1/4) [fifty (50) percent] of the total amount submitted [for which the fair is eligible, based] on the fair's building report up to a maximum of $1,500. The second [Final] building program payments will be made after all financial statements and building reports have been received in the office of the Division of Shows and Fairs and the total amount required for all grants is known. At this point, the second building payment amount will be adjusted on an equal basis to bring the total grants in line with the funds available in the Aid to Fairs Program budget.

Section 8. Effect of Overspending of Fair Program Budget. In the event that the local agricultural fair program payments exceed the amount of money budgeted for the total fair program, reductions will be made in payments as

recommended by the fair council and as determined by the Commissioner of Agriculture.

WARD "BUTCH" BURNETTE, Commissioner
APPROVED BY AGENCY: July 18, 1990
FILED WITH LRC: July 19, 1990 at 9 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 28, 1990 at 9 a.m. at the Department of Agriculture Conference Room, 7th Floor, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by September 24, 1990, five days prior to 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. The 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, Capital Plaza Tower, 7th Floor, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Alan Hamilton
(1) Type and number of entities affected: Local agricultural fairs: approximately 90.
(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: No significant changes.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: No significant changes.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: Alternative methods would require amendment of enabling legislation KRS 247.220.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: N/A
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A
(6) Any additional information or comments: Major purpose of amending regulation is to incorporate increase appropriation granted by the General Assembly. Also makes relatively minor wording changes to clarify intent of original regulation.
TIERING: Was tiering applied? No. Regulated entities are very similar and regulation applies uniformly with no disproportionate impact.

TRANSPORTATION CABINET
Department of Vehicle Regulation
Division of Motor Carriers
(Proposed Amendment)

601 KAR 9:074. Kentucky highway use license, records and taxes.

RELATES TO: KRS 138.655 to 138.725
STATUTORY AUTHORITY: KRS 138.725
NECESSITY AND FUNCTION: KRS 138.725 makes the Department of Vehicle Regulation responsible for the application of the Kentucky motor carrier taxes covered by KRS 138.655 to 138.725. This regulation provides procedures for licensees to follow in order to comply with the statutes.

Section 1. Definitions. (1) "Registration" means the registration of each of the vehicles operated by the licensee for the purpose of a tax imposed by KRS 138.660. Proof of this registration is the motor vehicle identification card issued by the Department of Vehicle Regulation and carried in the cab of the vehicle.
(2) "Current registration period" means the quarterly period for which the tax under KRS 138.660 is due or required to be reported on the quarterly tax return.
(3) "Combined license weight" means the declared combined maximum gross weight of the vehicle and any towed unit for registration purposes for the current registration period; or the highest actual combined gross weight of the vehicle and any towed unit when operated on the public highways of the state during the current registration period.
(4) "Declared gross weight" means the combined license weight.
(5) "Gross weight" means the unladen weight of the vehicle and any towed unit plus the maximum load to be carried by it on the highways of the Commonwealth of Kentucky.

Section 2. Application for Kentucky Highway Use License. (1) Every motor carrier as defined in KRS 138.655(5) shall apply for and obtain a license before using or continuing to use the public highways in the state. The application shall be on forms prescribed and furnished by the Department of Vehicle Regulation. The department shall issue a Kentucky Highway Use (KYU) license number to each qualified motor carrier, and the department shall cause this license number to be displayed on each motor vehicle identification card issued by it.
(2) An applicant who only wants to transport exempt commodities (see 601 KAR 1:090 and KRS 281.625) or who only wants to operate in Kentucky in intrastate commerce shall apply on form TC 95-14, "Application for Irregular Route Truck Certificate" last revised in September, 1988. This form is hereby incorporated by reference.
(3) An applicant for registration of operating authority who operates in interstate commerce or who is exempt from the Interstate Commerce Commission regualtions shall apply on form TC 95-12, "FORM A, Uniform Application for Registration of Operating Authority Issued by ICC or Those Carriers Exempt From ICC Regulations" last revised in October, 1985. This

form is hereby incorporated by reference.

(4) An applicant for registration who operates exclusively as a private carrier transporting his own commodities shall apply on form TC 95-200, "Application for Kentucky Highway Use License" last revised in August, 1988. This form is hereby incorporated by reference.

(5) All of the forms incorporated by reference as part of this section may be viewed or obtained from the Division of Motor Carriers free of charge. The Division of Motor Carriers is on the third floor of the State Office Building in Frankfort, Kentucky. Its mailing address is P.O. Box 2007, Frankfort, Kentucky 40602. Its telephone number is (502) 564-4540. Its business hours are 8 a.m. to 4:30 p.m. local prevailing time on all weekdays except state holidays.

Section 3. Bonds-cash Deposit. (1) Every motor carrier and heavy equipment motor carrier, pursuant to the provisions of KRS 138.655 to 138.725 shall file with the department at the time of application for a license a corporate bond, cash bond, or security approved by the department. The applicant for the license shall be the principal obligor and the Commonwealth of Kentucky shall be the obligee. The bond shall be conditioned as required in KRS 138.670, and the department shall administer the bond as provided in KRS 138.670.

(2) Proof of the highway use bond may be filed on form TC 95-201, "Kentucky Highway Use Bond" last revised in March, 1985. This form is hereby incorporated by reference.

(3) The form incorporated by reference as part of this section may be viewed or obtained from the Division of Motor Carriers free of charge. The Division of Motor Carriers is on the third floor of the State Office Building in Frankfort, Kentucky. Its mailing address is P.O. Box 2007, Frankfort, Kentucky 40602. The telephone number is (502) 564-4540. Its business hours are 8 a.m. to 4:30 p.m. local prevailing time on all weekdays except state holidays.

Section 4. Registration for Highway Use Tax. (1) Proof of registration shall be required of all motor carriers as defined in KRS 138.655(5) prior to operating a motor vehicle on the public highways of Kentucky. The applicant for the license in Section 2 of this regulation shall apply to the department for a motor vehicle identification card [on forms prescribed and furnished by the department for each vehicle to be operated in Kentucky]. The application shall meet the requirements established in 601 KAR 9:040 and shall be on form TC 95-38, Application for Kentucky Vehicle Identification Card for Year " last revised in April, 1989. This form is hereby incorporated by reference.

(2) A motor vehicle identification card, which is issued by the department, shall contain the name and address of the person or company under whose authority the vehicle is being operated, the identification of the vehicle, and other information as may be requested, including, but without limitation, the KYU license number issued to the applicant for the use of the public highways of Kentucky. The identification card shall show the vehicle combined license weight or the actual combined gross weight of the vehicle and any towed unit when operated on the public highways of the state during the current registration period.

(3) The motor vehicle identification card shall be displayed in the cab of the vehicle at all times. Failure to display the identification card shall constitute a violation of KRS 138.665.

(4) The form incorporated by reference as part of this section may be viewed or obtained from the Division of Motor Carriers free of charge. The Division of Motor Carriers is on the third floor of the State Office Building in Frankfort, Kentucky. Its mailing address is P.O. Box 2007, Frankfort, Kentucky 40602. The telephone number is (502) 564-4540. Its business hours are 8 a.m. to 4:30 p.m. local prevailing time on all weekdays except state holidays.

Section 5. Communications, Business Names and License Address. All licensees shall immediately report any change in principal business address, legal status or business name to the department. All motor carrier operations shall be conducted in the name in which the license and the motor vehicle identification cards are issued or the duly assumed business name of the licensee, as it appears on the license. All licensees are required to use the name utilized in the application for the license in all documents relating to their operations and in all correspondence with the department. All correspondence with the department shall be addressed as follows: Kentucky Department of Vehicle Regulation, Division of Motor Carriers, Post Office Box 2007, Frankfort, Kentucky 40602.

Section 6. Instruments Filed Become Permanent Records. All bonds filed with the department as required by statute are permanent records and cannot be returned to licensee or removed from the custody of the department as long as the licensee is subject to the Kentucky Statutes.

Section 7. Kentucky Highway Use License for Leased Vehicles. (1) Any person leasing or renting a commercial motor vehicle to a lessee who is engaged in private carriage, where the operator of such vehicle is required to have a Kentucky Highway Use License may obtain the license by making application to the department and complying with the appropriate administrative regulations. Any lessor with a Kentucky Highway Use License may entitle the lessee to operate the leased or rented vehicle under the lessor's license. If the lessor allows the lessee to operate under the lessor's license the lease shall be carried in the vehicle and the required motor vehicle identification card shall be in the lessor's name and the lessor shall make the required quarterly reports and pay all taxes which may become due by virtue of the operation of the motor vehicle. A lessor of motor vehicle equipment who makes an application for a license under this section shall furnish the department a copy of the standard lease or rental agreement as well as the address of the place of business where the lessor's records are maintained. A current list of all lessees who lease equipment from the lessor and who will use the lessor's Kentucky Highway Use License shall be filed with the department. This list shall contain the name of the lessee, the lessee's address, the number of vehicles leased to each lessee and other pertinent information which the department may require. The list required by this section shall be updated and kept current on a semiannual basis by the lessor.

(2) A carrier or motor carrier as defined in KRS 281.011 leasing a motor vehicle shall be

required to obtain the Kentucky Highway Use License and the lessee shall be responsible to make the required quarterly reports and to pay any tax which may become due.

Section 8. Authorized Deductions on Quarterly Returns. Every person licensed as a motor carrier may deduct on his quarterly tax return the amount of tax paid on fuel at the time of purchase, provided the purchase is made in Kentucky and the Kentucky motor fuel tax has been paid and provided the fuel is used to propel a motor vehicle subject to the provisions of KRS 138.660. The tax credits, and tax refunds, authorized by KRS 138.695 to be granted to a taxpayer for all mileage and fuel taxes imposed under KRS 138.655 through 138.725 shall not exceed in amount the actual amount of the subject taxes paid by the taxpayer, exclusive of any applicable interest thereon due the taxpayer by operation of law. A valid receipt shall be obtained as evidence of purchase from the person making the sale or delivery.

(1) A valid receipt shall meet the following criteria:

(a) The purchase receipt shall be the original prepared by a station or vendor located in the Commonwealth of Kentucky and shall have an imprinted Kentucky address. Receipts that have an imprinted Kentucky address, but include other station locations outside of Kentucky are invalid.

(b) The following shall be included on the receipt:

1. Name and station location of the vendor;
2. Date of purchase;
3. Number of gallons purchased;
4. Type of fuel purchased;
5. Company unit number of vehicle or registration number of unit; and
6. Licensee's name.

(c) The name and address of the vendor shall be preprinted or imprinted, which includes, but is not restricted to, credit card machines. Station receipts that are identified only by impressed rubber stamp markers or handwritten are not valid.

(2) Other documents such as computer records, ledgers, and journals may be accepted as evidence of valid fuel purchase receipts, if such records contain the same information as required in subsection (1) of this section, provided such records meet acceptable auditing tests.

(3) Bulk or storage purchasers of fuel shall maintain a withdrawal or disbursement record when such fuel is used in taxable highway or road units. This record shall be kept on all units fueling from this tank showing the unit fueled, gallons withdrawn, and the date of withdrawal. Tax on bulk purchases shall be paid at the time of purchase in accordance with KRS 138.220 and 234.320. If a motor carrier uses tax free bulk storage fuel to fuel taxable units (highway units), tax will be levied on total fuel purchased for bulk storage.

(a) Any use of fuel from a tax-free storage tank without adequate records to prove no on-highway use of the fuel shall be taxable. Approved location of tax-free storage shall be issued by the Revenue Cabinet before tax-free fuel is purchased.

(b) Credit for fuel purchase receipts other than for the taxable units shall not be allowed.

(4) In instances where fuel is purchased by trip-leased units and the lessee is responsible for the Kentucky highway tax, all receipts shall be made in the name of the lessee. Receipts made out in the name other than the person or company responsible for the fuel tax shall be invalid.

(5) Certain motor vehicles including, but not limited to, mixers, pumps, load lifts, refrigeration equipment, that utilize power takeoff equipment and similar devices which involve consumption of fuel from the same tanks that are permanently attached to and are part of the power unit and serve to power the operation of the motor vehicles upon the highways. Operators of those types of motor vehicles utilizing such equipment, may adjust the miles per gallon entry on their Kentucky highway use tax returns to reflect fuel actually consumed by such power takeoff equipment in operations over the highway, provided, however, that any adjustment claimed therefor must be substantiated by adequate records, and is subject to audit by the Transportation Cabinet.

Section 9. Cancellation of License. If a motor carrier fails to comply with the terms of KRS 138.655 to 138.725, or these regulations, its Kentucky Highway Use Tax License may be cancelled. Reasons for cancellation include, but are not limited to, the following:

(1) Failure to file tax return thirty (30) days after the due date. The licensee shall be mailed a second notice or reminder and be given fifteen (15) days to file the return if he has not filed his tax return within thirty (30) days after the due date. If the licensee fails to comply with the second notice, the license will be subject to cancellation.

(2) Failure to pay additional taxes assessed by the department.

(3) Failure by a licensee to produce records after written demand for such may result in cancellation of the license and any other penalties applicable by law. Each succeeding day shall constitute a separate violation until the records are produced at the place stated in the demand.

Section 10. Procedure upon Cancellation of License. (1) Upon cancellation of Kentucky Highway Use License in accordance with the provisions of KRS 138.675 and after notice to the carrier by mailing the same to the address on file in the department, the carrier shall immediately return to the department the license and all motor vehicle identification cards issued to the carrier.

(2) Failure to return the license and cards or the operation of a motor vehicle displaying a motor vehicle identification card after notice of revocation of the highway use license shown thereon, shall be a violation of KRS 138.675.

Section 11. Tax Liability and Protest Procedures. (1) The licensee shall be mailed a supplemental tax statement, if additional tax is found to be owed as the result of an audit or found as the result of an examination of licensee's tax return. The licensee has forty-five (45) [thirty (30)] days to pay or protest to the department per KRS 131.110 in writing any assessment or tax liability imposed by the department. A protest shall be accompanied by a supporting statement identifying specific adjustments being protested and setting forth the reasons upon which the

protest is being made.
(2) If the licensee so desires, he may, within thirty (30) days, protest directly to the Kentucky Board of Tax Appeals.
(3) The department shall acknowledge receipt of the protest and if protest is acceptable, a tax conference shall be set between the department and licensee within sixty (60) days of the protest. The department shall notify the licensee within thirty (30) days its decision to deny or accept the reasons of the protest. If denied, the licensee may protest to the Kentucky Board of Tax Appeals.
(4) If the licensee fails to pay the tax statement or file a protest with the department [Kentucky Board of Tax Appeals] within forty-five (45) [thirty (30)] days and did not file a protest with the Kentucky Board of Tax Appeals within thirty (30) days, a reminder shall be sent to licensee demanding payment within fifteen (15) days. If within fifteen (15) days, the taxes have not been remitted to the department, a demand shall be made against the licensee's surety bond. Any balance of unpaid taxes shall be submitted to the Transportation Cabinet's legal counsel for collection.

Section 12. Penalties. In addition to any other penalties which may be imposed under KRS 138.990 and any other applicable laws, the licensee shall be subject to the civil penalties provided for in KRS 138.715.

Section 13. Inspection. Any motor vehicle enforcement officer or state police officer may inspect the motor vehicle identification card, license registration, driver's log, lease, trip sheet or shipping document to determine if the vehicle is qualified to operate on the highways of the Commonwealth of Kentucky. The law enforcement officer may also weigh vehicles to determine if the gross weight conforms to the licensed weight on the motor vehicle identification card.

Section 14. Records Disposition. The department shall retain the active file of KYU tax returns for at least five (5) years. An inactive KYU license shall be retained two (2) years after cancellation.

Section 15. Reinstatement of License. If the carrier desires to be reinstated after cancellation, the carrier shall:
(1) Prove to the department that sufficient records are being and will be maintained to file accurate Kentucky Highway Use Tax returns.
(2) Submit quarterly returns for all missed periods.
(3) Pay all taxes for missed returns plus penalties and interest.
(4) Provide a replacement bond if its previous bond has been cancelled.
(5) Provide evidence of insurance, operating authority, and other items required by KRS Chapter 281, if applicable to the carrier.

Section 16. Maintenance of Records. (1) Every motor carrier reporting and paying taxes under a cooperative agreement entered into pursuant to KRS 177.979 shall keep and maintain records of all coal shipments over the state maintained public highways. Each licensee shall also maintain weight tickets, bona fide third party documents or other documents to accurately verify tonnage that will reflect the true tonnage transported over said highways and the distance that such tonnage was transported over such highway. The weight ticket or third party document shall include but not be limited to the following:
(a) Name and identification number of the mine owner, severer, processor, broker or shipper.
(b) Name and KYU number of person transporting coal.
(c) Transporter's assigned unit vehicle number.
(d) Points of origin and destination.
(2) Every motor carrier required to report and pay taxes under the provisions of KRS 138.660 shall keep and maintain records on each motor vehicle operated on Kentucky highways. The records shall include vehicle type, declared gross weight, actual weight, number of axles, mileage operated in Kentucky as reported on trip sheets and driver logs, fuel purchases, and use and other disposition of gasoline and special fuels.
(3) All records shall be maintained for five (5) years for audit and tax purposes.

JEROME LENTZ, Acting Commissioner
MILO D. BRYANT, Secretary
APPROVED BY AGENCY: July 26, 1990
FILED WITH LRC: July 27, 1990 at 3 p.m.
PUBLIC HEARING: A public comment hearing will be held on this administrative regulation on September 25, 1990 at 8:30 a.m., local prevailing time in the Fourth Floor Hearing Room of the State Office Building located at the corner of High and Clinton Streets, Frankfort, Kentucky. Any person who intends to attend this hearing must in writing by September 20, 1990 so notify this agency. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public comment hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the administrative regulation. If the hearing is cancelled, written comments will only be accepted until September 20, 1989. Send written notification of intent to attend the public hearing or written comments on the administrative regulation to: Sandra G. Pullen, Executive's Staff Advisor, Transportation Cabinet, 10th Floor State Office Building, Frankfort, Kentucky 40622.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sandra G. Pullen
(1) Type and number of entities affected: 30,000 motor carriers operating in Kentucky.
(a) Direct and indirect costs or savings to those affected: None as a result of this amendment.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: None as a result of this amendment.
(2) Effects on the promulgating administrative body: None as a result of this amendment.
(a) Direct and indirect costs or savings:
1. First year:

2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: None as a result of this amendment.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternatives available. State law relating to time period for a person to pay his taxes was changed during the 1990 Regular Session.
(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: Since the administrative regulation had to be amended to comply with the provisions of HB 802, the reference to the forms had to be included to comply with provisions of KRS Chapter 13A.
TIERING: Was tiering applied? No. All taxpayers must retain the same records and file their taxes or protests in the same manner.

TRANSPORTATION CABINET
Department of Vehicle Regulation
Division of Motor Vehicle Licensing
(Proposed Amendment)

601 KAR 9:140. Temporary registration plates [tags issued by county clerks].

RELATES TO: KRS Chapters 186, 186A
STATUTORY AUTHORITY: KRS 186A.100
NECESSITY AND FUNCTION: KRS Chapter 186A allows a county clerk to issue a temporary registration plate [tag] to a vehicle registered and titled in another state for which a properly completed application for title and registration has been submitted. It also provides for motor vehicle dealers to issue temporary plates to be placed on motor vehicles not previously registered in Kentucky. The temporary registration plate [tag] may only be issued while the [vehicle owner is assembling] documents necessary to title or register the vehicle in Kentucky are being assembled. This administrative regulation prescribes the properly completed application, the records to be maintained by the county clerk and his inability to renew the temporary registration plate. It further specifies how the temporary registration plate is to be completed by either the county clerk or motor vehicle dealer [tag].

Section 1. Application. (1) The properly completed application referred to in KRS 186A.100(4) shall be on the form mandated in KRS 186A.060.
(2) The application made by a motor vehicle dealer to the county clerk for the issuance of a temporary registration plate shall be on Transportation Cabinet form TC 96-209, revised August, 1983, "Temporary Tag Application". The form, TC 96-209 is hereby incorporated by reference as part of this administrative regulation. Copies of the form are available at the office of any county clerk and in the Transportation Cabinet, Division of Motor Vehicle Licensing, Second Floor, State Office Building, Frankfort, Kentucky 40601. The Division of Motor Vehicle Licensing is open Monday through Friday except holidays from 8 a.m. to 4:30 p.m. eastern time.

Section 2. Number of Temporary Plates [Tags]. A county clerk or motor vehicle dealer may issue only one (1) thirty (30) day temporary registration plate [tag] for a particular vehicle. The temporary registration plate [tag] shall not be renewed.

Section 3. [County Clerk's] Log of Temporary Registration Plates Issued. (1) Any county clerk, deputy clerk, or motor vehicle dealer who issues a temporary registration plate shall maintain a log of information on each plate issued.
(2) The county clerk's log form[s] for recording temporary registration plates [tags] shall contain the following information:
(a) Plate [Tag] number;
(b) Person to whom the plate [tag] is issued;
(c) Vehicle identification number of vehicle for which the plate [tag] is issued;
(d) Expiration date of the plate [tag]; and
(e) Name of the county clerk or deputy county clerk who issued the plate [tag].
(3) The motor vehicle dealers' log form for recording the issuance of temporary registration plates shall contain the following information:
(a) Dealer's name, telephone number and city of principal place of business;
(b) Plate number;
(c) Date of delivery of motor vehicle;
(d) Expiration date of temporary registration plate;
(e) Name of purchaser of motor vehicle; and
(f) Vehicle identification number, make and model year.
(4) [(2)] The person [county clerk] issuing the temporary registration plate [tag] shall enter all information required by this administrative regulation in the log. This log shall be made available upon request to officials of the Transportation Cabinet or law enforcement officers.

Section 4. Completion of the Temporary Plate. (1) All of the blank spaces of the temporary registration plate shall be completed by the issuing agent using a dark, indelible ink.
(2) The left side of the temporary plate contains six (6) blocks to be filled in with the expiration date of the temporary plate. Only one (1) numeral shall be entered in each block. Each numeral shall occupy at least eighty (80) percent of its block and shall be written with a wide-tipped marker in indelible, dark ink so that it will be easy for an enforcement officer to read.

JEROME LENTZ, Acting Commissioner
MILO D. BRYANT, Secretary
APPROVED BY AGENCY: August 1, 1990
FILED WITH LRC: August 2, 1990 at 2 p.m.
PUBLIC HEARING: A public comment hearing will be held on this administrative regulation on September 25, 1990 at 3 p.m., local prevailing time in the Fourth Floor Hearing Room of the State Office Building located at the corner of High and Clinton Streets, Frankfort, Kentucky. Any person who intends to attend this hearing must in writing by September 20, 1990 so notify

this agency. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public comment hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the administrative regulation. If the hearing is cancelled, written comments will only be accepted until September 20, 1989. Send written notification of intent to attend the public hearing or written comments on the administrative regulation to: Sandra G. Pullen, Executive's Staff Advisor, Transportation Cabinet, 10th Floor State Office Building, Frankfort, Kentucky 40622.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sandra G. Pullen
(1) Type and number of entities affected: 3,500 motor vehicle dealers and 120 county clerks.
(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: Sets forth standards for and requires everyone issuing temporary registration plates to maintain a log. In addition, everyone issuing a temporary registration plate will be required to complete the new forms in dark, indelible ink.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: Motor vehicle dealers have not been specifically required to maintain a log of temporary registration plates. The do-nothing alternative was rejected because of the problems encountered with their recordkeeping. The temporary plate has just been redesigned to highlight its expiration date. The do-nothing alternative relating to this section was rejected because the expiration date must be large enough and dark enough to be read by an enforcement officer.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? Yes. Different information is needed on the log kept by a county clerk than on the one kept by a motor vehicle dealer.

TRANSPORTATION CABINET
Department of Vehicle Regulation
Division of Motor Carriers
(Proposed Amendment)

603 KAR 5:110. Permits for moving mobile homes which do not exceed fourteen (14) feet in width.

RELATES TO: KRS 189.270
STATUTORY AUTHORITY: KRS 189.270
NECESSITY AND FUNCTION: KRS 189.270 authorizes the Department of Highways to issue permits for the movement of house trailers exceeding legal dimensions. This regulation establishes for house trailers which do not exceed fourteen (14) feet in width the permit application procedures within the Transportation Cabinet and establishes movement requirements necessary in the interest of highway safety.

Section 1. Definitions. (1) "Daylight hours" means the period of a day from one-half (1/2) hour before sunrise until one-half (1/2) hour after sunset. However, it does not include any time when atmospheric conditions such as heavy rain, snow, sleet or fog render visibility lower than is ordinarily the case during that period of the day.
(2) "National holiday" means New Year's Day, Memorial Day (as observed on the last Monday in May), Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.
(3) "House trailer" means a mobile home or manufactured home but not a modular home.

Section 2. Permit Application. (1) Application for a permit to move a house trailer on a Kentucky highway shall only be made to the Department of Vehicle Regulation, Division of Motor Carriers, Frankfort, Kentucky.
(2) A single trip permit application or request shall specify the make of the towing vehicle, the vehicle's license number and state of registration, name and address of the owner, dates of travel and specific routes of travel requested.
(3) An annual permit application or request shall specify the make, rated capacity, vehicle identification number, license number and state of registration, and name and address of the owner of the towing vehicle. In addition, it shall specify whether the motor carrier operating the towing vehicle is a for-hire or private carrier and the routes of travel requested.

Section 3. Permit Required. (1) No house trailer of a width greater than eight and one-half (8 1/2) feet shall be towed on any highway listed in 603 KAR 5:070, Section 2(2)(b) nor shall any house trailer with a width greater than eight (8) feet be towed on any other Kentucky highway unless, and until, a special written permit has been issued by the Department of Vehicle Regulation, Division of Motor Carriers.
(2) No house trailer with a combined length of house trailer and towing vehicle greater than sixty (60) feet shall be towed upon any Kentucky highway unless, and until, a special written permit has been issued by the Department of Vehicle Regulation, Division of Motor Carriers.

Section 4. Annual Permits. (1) An annual permit shall not be issued for the movement of a

house trailer in excess of twelve (12) feet in width.

(2) A movement of a house trailer under the provisions of an annual permit shall be on highways specified on the annual permit.

(3) Annual permits for the movement of house trailers may be issued only to dealers and manufacturers located within the Commonwealth of Kentucky; to certificated motor carriers who are properly licensed as motor carriers by the Department of Vehicle Regulation; and to private owner-residents of Kentucky for movements of their personally owned house trailers.

(4) Each towing vehicle for house trailers greater than the legal width shall be registered in Kentucky for a gross weight of not less than 22,000 pounds, have dual wheels on the rear and be rated at least one and one-half (1 1/2) ton capacity.

(5) An annual permit shall not be issued or used for the movement of a house trailer if the length of the house trailer and towing unit combined exceeds ninety-five (95) feet in length.

Section 5. Single Trip Permits. (1) A single trip permit shall be valid for no more than ten (10) days.

(2) A single trip permit shall not be issued for any unit, including towing vehicle and house trailer combined, which exceeds ninety-five (95) feet in length or fourteen (14) feet in width exclusive of usual and ordinary overhang.

(3) A single trip permit shall specify the highways to be used in the movement of the house trailer.

Section 6. Permit Costs. The issuance cost of an annual or a single trip permit, as set forth in KRS 189.270, shall apply to the towing vehicle and the cost shall not be prorated.

Section 7. Escort Vehicles and Lighting Requirements. (1) One (1) lead escort vehicle is required for the movement of house trailers greater than the legal width but not exceeding twelve (12) feet wide on all two (2) lane highways.

(2) When a house trailer more than twelve (12) feet wide is moved, one (1) escort shall be required in the rear of each house trailer on highways with four (4) or more lanes. On highways of two (2) lanes, two (2) escort vehicles shall be required for each house trailer, one (1) in front and one (1) in the rear.

(3) Escort vehicles, both front and rear, shall be required where highway conditions dictate the need.

(4) Red or orange fluorescent flags at least eighteen (18) [twelve (12)] inches square shall be displayed on both sides of the towing vehicle or house trailer at the widest extremity and two (2) more at the extreme rear of the house trailer to indicate maximum width. The flags shall be securely fastened to the house trailer by at least one (1) corner or securely mounted on a staff. [front bumper of the lead escort and on both sides of the rear of a following escort.]

(5) Amber flashing lights may be used on both the escort and towing vehicles if the unit's width does not exceed twelve (12) feet. If the house trailer exceeds twelve (12) feet in width, all escort vehicles and the towing vehicle shall have an amber flashing light on the roof. The [and the] house trailer shall be equipped with four (4) amber flashing lights. One (1) shall be located on each outermost front and each outermost [front and] rear corner of the house trailer spaced not less than six (6) feet above the roadway.

(6) All overdimensional mobile homes and towing vehicles shall be marked and lighted in accordance with those requirements set forth in 601 KAR 1:005. All running lights shall be on while the unit is in motion.

(7) Oversize load signs shall be placed on the front of the towing vehicle and the rear of the house trailer any time it is operating on a highway. Each warning sign shall state in black letters on a yellow background, "OVERSIZE LOAD", and shall be at least seven (7) feet long and eighteen (18) inches high with a brush stroke of at least one and fourt-tenths (1.4) inches.

Section 8. Duplicate Permits. A duplicate permit which is needed to replace a lost or destroyed annual permit or to transfer the permit to another towing vehicle may be obtained from the Division of Motor Carriers by the payment of ten (10) dollars.

Section 9. Route Deviation. Prior approval shall be secured from the Division of Motor Carriers for any house trailer hauled under an annual permit which deviates from the routes prescribed in the permit issued for the towing vehicle.

Section 10. Presentation of Permits. Permits shall be carried in the towing vehicles at all times and shall be presented, upon request, to any law enforcement officer or any authorized personnel of the Department of Vehicle Regulation for inspection.

Section 11. Permit Validity. (1) Permits are valid during only daylight hours as defined in Section 1 of this regulation, from Monday through Saturday noon, except for those periods before, during and after national holidays. In connection with these holidays, travel is not permitted from noon of the day preceding the national holiday until daylight of the next permissible day. If the national holiday occurs on Sunday or Monday the restricted period shall extend from noon of the preceding Friday to daylight of the following Tuesday.

(2) Permits for movement of house trailers more than twelve (12) feet in width are not valid on Saturday. In addition, in Jefferson, Fayette, Boone, Kenton and Campbell Counties they are only valid between the hours of 9 a.m. and 3 p.m. and from 6 p.m. to sundown, local prevailing time.

(3) If satisfactory proof of an emergency is furnished the Division of Motor Carriers, moves may be authorized during the restricted hours.

Section 12. Movement on Two (2) or Four (4) Lanes. Moves of house trailers more than twelve (12) feet wide shall be limited to highways of four (4) or more lanes and to the shortest and best two (2) lane route designated by the Department of Vehicle Regulation, Division of Motor Carriers to be used to the unit's ultimate destination. The department shall deny movements on any routes deemed unsuitable for move.

Section 13. Weather Conditions. Moves of house trailers more than twelve (12) feet wide cannot

be made on any highway when wind velocity exceeds twenty-five (25) MPH or when adverse weather conditions would cause these moves to be dangerous. House trailers that exceed twelve (12) feet in width shall not be moved when the road is partially or fully covered by sleet, snow, or ice or when visibility is unduly impaired by rain, sleet, snow, fog, etc.

Section 14. Breaks. The number, type, size and design of brake assemblies required to assist the towing vehicle in controlling and stopping a house trailer shall be sufficient to assure that the maximum stopping distance from an initial velocity of twenty (20) miles per hour does not exceed forty (40) feet. House trailers which are not equipped with brakes on all axles shall certify that the towing unit has sufficient brake assembles to meet the braking distance specified in this section. This certification shall be in the form of a manufacturer's statement, documented technical data, or adequate engineering analysis or its equivalent, specifying that the braking distance requirement has been met. This certificate shall be carried in the towing unit at all times and shall be presented upon request, to any law enforcement officer.

Section 15. Speed Limit. The speed limit for the movement of house trailers greater than twelve (12) feet wide on interstate highways is forty-five (45) MPH. On other highways the speed limit is thirty-five (35) MPH, unless posted minimum speed exceeds this, then the speed limit may be increased to the minimum posted speed.

JEROME LENTZ, Commissioner
MILO D. BRYANT, Secretary
GILBERT NEWMAN, State Highway Engineer
APPROVED BY AGENCY: July 26, 1990
FILED WITH LRC: July 27, 1990 at 3 p.m.
PUBLIC HEARING: A public comment hearing will be held on this administrative regulation on September 25, 1990 at 1:30 p.m., local prevailing time in the Fourth Floor Hearing Room of the State Office Building located at the corner of High and Clinton Streets, Frankfort, Kentucky. Any person who intends to attend this hearing must in writing by September 20, 1990 so notify this agency. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public comment hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the administrative regulation. If the hearing is cancelled, written comments will only be accepted until September 20, 1989. Send written notification of intent to attend the public hearing or written comments on the administrative regulation to: Sandra G. Pullen, Executive's Staff Advisor, Transportation Cabinet, 10th Floor State Office Building, Frankfort, Kentucky 40622.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sandra G. Pullen
(1) Type and number of entities affected: All transporters of mobile homes operating in Kentucky.
(a) Direct and indirect costs or savings to those affected:
1. First year: The changes to this administrative regulation will result in a minor cost of approximately $50 per permit holder to meet the new safety requirements.
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body: None
(a) Direct and indirect costs or savings: 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: The do-nothing alternative was rejected because the Kentucky Division of Motor Carriers has been working with other midwetern states to estalish uniform safety requirements for the movement of overdimensional loads. The standards adopted in this administrative regulation are the ones agreed to by the other states.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: The cooperative effort referred to in (4) was requested by regular transporters of overdimensional loads. Those transporters who operate interstate were having a difficult time staying legal on a long move.
TIERING: Was tiering applied? Yes. Safety requirements vary depending on the width of the mobile home and the number of lanes of the highway.

TRANSPORTATION CABINET
Department of Highways
Division of Planning and Maintenance
(Proposed Amendment)

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

RELATES TO: KRS 177.9771, 189.230
STATUTORY AUTHORITY: KRS 177.9771
NECESSITY AND FUNCTION: KRS 177.9771(2) requires the Secretary of the Transportation Cabinet to certify those public highways which meet certain criteria as the extended weight coal or coal by-products haul road system. KRS 189.230 provides that the Department of Highways may prescribe gross vehicle weight limits for bridges lower than the limits prescribed in KRS 177.9771 on any bridge which may be damaged or destroyed to the point of catastrophic failure if gross vehicle weights exceed certain limits. This regulation identifies the extended weight coal or coal by-products haul road system and the bridges on the system which the Department

of Highways has judged may be so damaged and prescribes the maximum weight limit for each of these bridges. Further, KRS 177.9771(9) requires the Transportation Secretary to meet with certain local governing bodies and give consideration to their concerns before adding to or deleting from the extended weight coal or coal by-products haul road system and establishes procedures to be followed by local governing bodies requesting this consideration.

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

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

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

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

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

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

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

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

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

(9) "MP" means milepoint.

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

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

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

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

(14) "CO" means county.

(15) "LN" means line.

(16) "Mpt." means milepoint.

(17) "PKWY" means parkway.

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

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

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

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

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

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

ANDERSON COUNTY

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

BATH COUNTY

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

BELL COUNTY

	ROAD	FROM		TO	
*	US 25E	0.0	Virginia State LN	19.5	Knox CO LN
	Weight Limit - Bridge over Little Yellow Creek @ milepoint 2.17				
	TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 43 tons				
	Weight Limit - Bridge over L & N R.R. @ milepoint 7.52				
	TY I = 20 tons, TY II = 43 tons, TY III = 44 tons, TY IV = 56 tons				
	Weight Limit - Bridge over Greasy Creek @ milepoint 18.14				
	TY I = 20 tons, TY II = 34 tons, TY III = 35 tons, TY IV = 48 tons				
*	US 119	0.0	US 25E	15.8	Harlan CO LN
	Weight Limit - Bridge over Cumberland River @ milepoint 0.02				
	TY I = 20 tons, TY II = 30 tons, TY III = 32 tons, TY IV = 39 tons				
*	KY 66	0.0	US 25E	10.1	Buffalo Creek RD
	Weight Limit - Bridge over Cumberland River @ milepoint 0.33				
	TY I = 20 tons, TY II = 49 tons, TY III = 49 tons, TY IV = 54 tons				
	Weight Limit - Bridge over Left Fork Straight Creek @ milepoint 3.95				
	TY I = 20 tons, TY II = 32 tons, TY III = 33 tons, TY IV = 44 tons				
	Weight Limit - Bridge over Sims Fork @ milepoint 7.16				
	TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons				
		11.9	Straight Creek Road	15.1	Mines
		18.2	KY 2011	18.7	Clay CO LN
*	KY 72	1.0	Mine	3.4	Harlan CO LN
*	KY 74	0.0	Tennessee State LN	0.9	KY 535
		9.8	Mine	16.1	KY 2079
	Weight Limit - Bridge over L & N R.R. @ milepoint 11.56				
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons				
	Weight Limit - Bridge over Stoney Fork @ milepoint 13.07				
	TY I = 20 tons, TY II = 43 tons, TY III = 45 tons, TY IV = 60 tons				
	Weight Limit - Bridge over Yellow Creek Bypass Canal @ milepoint 14.21				
	TY I = 20 tons, TY II = 43 tons, TY III = 45 tons, TY IV = 60 tons				
*	KY 92	0.0	Whitley CO LN	10.8	US 25E
*	KY 186	2.2	Appollo Tipple	3.1	KY 74
	Weight Limit - Bridge over Bennett's Fork @ milepoint 2.41				
	TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons				
*	KY 188	2.8	KY 988	4.1	Cranes Creek RD
	Weight Limit - Bridge over Clear Fork Creek @ milepoint 2.80				
	TY I = 20 tons, TY II = 29 tons, TY III = 30 tons, TY IV = 49 tons				
*	KY 217	0.0	KY 988	8.8	KY 987
	Weight Limit - Bridge over Clear Fork Creek @ milepoint 0.20				
	TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 58 tons				
	Weight Limit - Bridge over Clear Fork Creek @ milepoint 1.22				
	TY I = 20 tons, TY II = 31 tons, TY III = 32 tons, TY IV = 38 tons				
	Weight Limit - Bridge over Brownies Creek @ milepoint 8.77				
	TY I = 20 tons, TY II = 29 tons, TY III = 30 tons, TY IV = 49 tons				
*	KY 221	0.0	KY 66	12.6	Harlan CO LN
	Weight Limit - Bridge over Right Fork Straight Creek @ milepoint 4.16				
	TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons				
	Weight Limit - Bridge over Stoney Fork Creek @ milepoint 9.23				
	TY I = 20 tons, TY II = 35 tons, TY III = 37 tons, TY IV = 60 tons				
*	KY 441	4.5	KY 2079	4.9	US 25E
	Weight Limit - Bridge over Yellow Creek @ milepoint 4.62				
	TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 59 tons				
*	KY 535	0.0	KY 74	0.6	Clear Fork RD
*	KY 987	9.4	Hen Wilder RD	13.5	KY 217
*	KY 988	1.2	KY 217	1.7	KY 188
*	KY 1344	0.0	KY 217	2.1	Wolfpen Branch RD
*	KY 2011	8.6	Beverly Tipple	9.0	KY 66
*	KY 2012	0.0	Private Haul RD	0.1	Hen Wilder RD
*	KY 2014	0.0	US 25E	2.7	Lewis Coal Mine RD
	Weight Limit - Bridge over Cumberland River @ milepoint 0.63				
	TY I = 15 tons, TY II = 15 tons, TY III = 15 tons, TY IV = 15 tons				

*	KY 2079	2.4 Ashbury Avenue	3.2 KY 441
*	Hen Wilder RD		
	CR 5001	0.0 KY 987	2.0 KY 2012
*	Cow Fork Road		
	CR 5032	0.0 KY 2011	2.6 Mine
*	Straight Creek Road		
	CR 5040	0.0 KY 66	0.6 Knox CO LN
*	Cranes Creek Road		
	CR 5260	0.0 KY 188	0.2 Mountain Drive Tipple
*	Hignite Creek Road		
	CR 5219	0.0 KY 74	2.3 Mine Access RD
	Weight Limit - Bridge over Hignite Creek		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
*	Clear Fork Road		
	CR 5227	0.0 KY 535	0.6 Mine Access RD
*	Lewis Mine Road		
	CR 5330	0.0 KY 2014 @ PONTA	0.5 Min-Dora Tipple
	Weight Limit - Bridge over Fourmile Creek		
	TY I = 20 tons, TY II = 45 tons, TY III = 51 tons, TY IV = 53 tons		
*	Little Creek Road		
	CR 5358	0.0 KY 66	0.2 Little Creek Tipple
*	Fitzpatrick Avenue (Middlesboro)		
		0.0 Ashbury Avenue	0.4 Old R B S Tipple
*	Ashbury Avenue (Middlesboro)		
		0.2 KY 2079	0.3 Fitzpatrick Avenue

BOURBON COUNTY

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

BOYD COUNTY

	ROAD	FROM	TO
*	US 23	0.0 Lawrence CO LN	21.1 Greenup CO LN
	Weight Limit - Bridge over I-64 @ milepoint 10.56		
	TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 60 tons		
	Weight Limit - Bridge over C & O R.R. @ milepoint 19.31		
	TY I = 20 tons, TY II = 30 tons, TY III = 31 tons, TY IV = 39 tons		
	Weight Limit - Bridge over C & O R.R. & Armco Rd. @ milepoint 19.34		
	TY I = 20 tons, TY II = 44 tons, TY III = 45 tons, TY IV = 52 tons		
*	US 23S	0.0 US 60	0.5 Ohio State LN
	Weight Limit - Northbound Bridge over Ohio River @ milepoint 0.03		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
	Weight Limit - Southbound Bridge over Ohio River @ milepoint 0.05		
	TY I = 20 tons, TY II = 28 tons, TY III = 33 tons, TY IV = 36 tons		
*	US 23X	1.4 US 60	2.0 US 23
*	US 60	0.0 Carter CO LN	12.4 US 23
	Weight Limit - Bridge over C & O R.R. at Princess @ milepoint 2.69		
	TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 60 tons		
*	US 60Z	0.0 US 23	0.2 US 60
*	KY 5	0.0 US 60	1.5 Straight Creek RD
	Weight Limit - Bridge over Williams Creek @ milepoint 0.92		
	TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons		
*	KY 757	6.2 US 23	10.2 US 23
*	Straight Creek Road		
	CR 5288	0.0 KY 5	0.6 Buena Vista RD
	Weight Limit - Bridge over Straight Creek		
	TY I = 14 tons, TY II = 14 tons, TY III = 14 tons, TY IV = 14 tons		

*	County Line Tipple Road			
	CR 5300	0.0 US 23	0.3	County Line Tipple
*	Buena Vista Road			
	CR 5493	0.0 Straight Creek RD	0.7	Mine Access RD
*	15th Street (Ashland)			
		0.0 US 23	0.2	Mansbach Dock
*	53rd Street (Ashland)			
		0.0 US 23	0.1	53rd ST Dock

BOYLE COUNTY

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

BRACKEN COUNTY

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

BREATHITT COUNTY

	ROAD	FROM	TO
*	KY 15	0.0 Perry CO LN	27.5 Wolfe CO LN
	Weight Limit - Bridge over Lost Creek @ milepoint 0.48		
	TY I = 20 tons, TY II = 39 tons, TY III = 38 tons, TY IV = 51 tons		
	Weight Limit - Bridge over Lost Creek @ milepoint 3.07		
	TY I = 20 tons, TY II = 39 tons, TY III = 38 tons, TY IV = 51 tons		
	Weight Limit - Bridge over Lost Creek @ Milepoint 3.80		
	TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 51 tons		
	Weight Limit - Bridge over Lost Creek @ milepoint 6.48		
	TY I = 20 tons, TY II = 38 tons, TY III = 39 tons, TY IV = 49 tons		
	Weight Limit - Bridge over Lost Creek @ milepoint 6.69		
	TY I = 20 tons, TY II = 39 tons, TY III = 40 tons, TY IV = 50 tons		
	Weight Limit - Bridge over Troublesome Creek @ Milepoint 7.64		
	TY I = 20 tons, TY II = 39 tons, TY III = 40 tons, TY IV = 50 tons		
	Weight Limit - Bridge over Quicksand Creek @ milepoint 14.73		
	TY I = 20 tons, TY II = 38 tons, TY III = 39 tons, TY IV = 47 tons		
	Weight Limit - Bridge over Frozen Creek @ milepoint 23.27		
	TY I = 20 tons, TY II = 45 tons, TY III = 49 tons, TY IV = 57 tons		
*	KY 28	5.7 Perry CO LN	7.4 Perry CO LN
*	KY 30	14.1 Elkatawa Tipple	14.8 KY 15 (North)
*	KY 476	0.0 Perry CO LN	11.4 KY 15
	Weight Limit - Bridge over Troublesome Creek @ milepoint 7.02		
	TY I = 20 tons, TY II = 35 tons, TY III = 36 tons, TY IV = 50 tons		
*	KY 542	9.2 Quicksand Creek RD	18.6 Magoffin CO LN
*	KY 1098	0.0 KY 15	20.7 Knott CO LN
	Weight Limit - Bridge over South Fork Quicksand Creek @ milepoint 5.27		
	TY I = 20 tons, TY II = 27 tons, TY III = 30 tons, TY IV = 49 tons		
	Weight Limit - Bridge over Quicksand Creek @ milepoint 17.98		
	TY I = 20 tons, TY II = 43 tons, TY III = 44 tons, TY IV = 59 tons		
*	KY 1110	15.2 Haddix Tipple	15.7 KY 15
	Weight Limit - Bridge over North Fork Kentucky River @ milepoint 15.55		
	TY I = 20 tons, TY II = 34 tons, TY III = 36 tons, TY IV = 51 tons		
*	KY 1111	0.0 KY 10.98	2.2 Big Lovely RD
*	Quicksand Creek RD		
	CR 5028	0.0 KY 542	1.0 Mine
*	Big Lovely Road		
	CR 5030	0.0 KY 1111	2.1 Knott CO LN
*	Springsfork Road		
	CR 5032	0.0 KY 542	1.4 Mine Access

	ROAD	FROM	TO
*	Slusher Road		
	CR 5067	0.0 KY 542	2.5 Mine
*	Buckhorn Creek RD		
	CR 5135	0.0 KY 476	0.3 Mine

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

BULLITT COUNTY

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

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

BUTLER COUNTY

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

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

*	US 231	8.6 KY 1468	8.9 Green River PKWY
		11.5 KY 70 (South)	18.9 Ohio CO LN

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

*	KY 70	0.0 Muhlenberg CO LN	14.4 US 231

Weight Limit - Bridge over Panther Creek @ milepoint 4.19
TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 60 tons

		14.4 US 231	25.3 KY 411

Weight Limit - Bridge over Welch Creek @ milepoint 20.37
TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons

*	KY 79	13.4 KY 70	15.2 Possum Hollow School RD
*	KY 411	0.0 KY 70	6.1 Mine
*	KY 1328	8.4 Pyramid Mine Access RD	11.7 KY 70
*	KY 1468	0.0 KY 70	1.1 US 231
*	Old Greenwich School Road		
	CR 5015	0.0 KY 1328	0.7 KY 70
*	Jolertown Ridge Road		
	CR 5027	0.0 KY 70	0.3 Pyramid Mine
*	New Cut Road (South)		
	CR 5243	0.0 KY 70	0.3 C Crabtree MN
*	Possum Hollow School Road		
	CR 5355	0.0 KY 79	0.7 Mine

Weight Limit - Bridge over East Prong of Indian Creek
TY I = 18 tons, TY II = 18 tons, TY III = 18 tons, TY IV = 18 tons

CALDWELL COUNTY

ROAD	FROM	TO
Western Kentucky Parkway		
	5.6 Lyon CO LN	21.8 Hopkins CO LN

Weight Limit - Bridge over I. C. R.R. @ milepoint 11.36
TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 57 tons
Weight Limit - Bridge over Tradewater River @ milepoint 21.75
TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 58 tons

CALLOWAY COUNTY

	ROAD	FROM	TO
*	US 641	0.0 Tennessee State LN	17.4 Marshall CO LN

Weight Limit - Bridge over Clark's River @ milepoint 1.10
TY I = 20 tons, TY II = 30 tons, TY III = 31 tons, TY IV = 44 tons
Weight Limit - Bridge over Bee Creek @ milepoint 8.92
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
Weight Limit - Bridge over Rockhouse Creek @ milepoint 15.65
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons

CARTER COUNTY

	ROAD	FROM	TO
*	US 60	24.1 KY 1 and KY 7	24.8 KY 1
		29.7 Fighting Fork RD	35.0 Boyd CO LN
*	KY 1	0.0 Lawrence CO LN	10.6 US 60
	Weight Limit - Bridge over Dry Fork Creek @ milepoint 0.46		
	TY I = 20 tons, TY II = 42 tons, TY III = 43 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Dry Fork Creek @ milepoint 0.83		
	TY I = 20 tons, TY II = 42 tons, TY III = 43 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Dry Fork Creek @ milepoint 1.12		
	TY I = 20 tons, TY II = 41 tons, TY III = 43 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Little Fork Little Sandy River @ milepoint 2.40		
	TY I = 20 tons, TY II = 43 tons, TY III = 44 tons, TY IV = 59 tons		
	Weight Limit - Bridge over Little Fork Little Sandy River @ milepoint 4.13		
	TY I = 20 tons, TY II = 41 tons, TY III = 43 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Little Fork Little Sandy River @ milepoint 4.75		
	TY I = 20 tons, TY II = 41 tons, TY III = 43 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Little Fork Little Sandy River @ milepoint 5.41		
	TY I = 20 tons, TY II = 42 tons, TY III = 43 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Little Fork Little Sandy River @ milepoint 5.77		
	TY I = 20 tons, TY II = 33 tons, TY III = 34 tons, TY IV = 45 tons		
	Weight Limit - Bridge over Little Fork Little Sandy River @ milepoint 7.70		
	TY I = 20 tons, TY II = 40 tons, TY III = 41 tons, TY IV = 55 tons		
		10.6 US 60	11.5 I-64
	Weight Limit - Bridge over I-64 @ milepoint 11.50		
	TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 60 tons		
*	KY 7	0.0 Elliott CO LN	10.9 KY 1
	Weight Limit - Bridge over Clifty Creek near Sophie @ milepoint 1.64		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
	Weight Limit - Bridge over Little Sandy River @ milepoint 10.12		
	TY I = 20 tons, TY II = 45 tons, TY III = 49 tons, TY IV = 56 tons		
*	KY 207	0.0 US 60	2.3 Greenup CO LN
*	Fighting Fork RD		
	CR 5034	0.0 US 60	0.9 Mine

CHRISTIAN COUNTY

	ROAD	FROM	TO
*	Pennyrile PKWY	9.4 US 68	28.1 KY Hopkins CO LN
*	US 41	28.5 KY 1296	31.6 Hopkins CO LN
	Weight Limit - Bridge over Campbells Creek @ milepoint 29.51		
	TY I = 20 tons, TY II = 39 tons, TY III = 39 tons, TY IV = 60 tons		
	Weight Limit - Bridge over L & N RR @ milepoint 30.88		
	TY I = 20 tons, TY II = 35 tons, TY III = 37 tons, TY IV = 50 tons		
*	KY 1296	2.7 Campbell Cemetery RD	5.2 US 41
*	Campbell Cemetery Road		
	CR 5418	0.0 KY 1296	2.0 Mine

CLARK COUNTY

	ROAD	FROM	TO
*	Mountain Parkway (KY 402)		
		0.0 I-64	11.9 Powell CO LN
	Weight Limit - Bridge over I-64 @ milepoint 0.13		
	TY I = 20 tons, TY II = 39 tons, TY III = 40 tons, TY IV = 47 tons		
	Weight Limit - Bridge over C & O RR @ milepoint 3.65		
	TY I = 20 tons, TY II = 42 tons, TY III = 43 tons, TY IV = 55 tons		
*	US 60	0.0 Fayette CO LN	6.7 KY 627
		7.0 KY 89	7.2 KY 15
*	KY 15	0.0 Powell CO LN	13.1 US 60
	Weight Limit - Bridge over Lulbegrud Creek @ milepoint 0.01		
	TY I = 15 tons, TY II = 15 tons, TY III = 15 tons, TY IV = 15 tons		
	Weight Limit - Bridge over Upper Howard's Creek @ milepoint 2.98		
	TY I = 21 tons, TY II = 21 tons, TY III = 24 tons, TY IV = 38 tons		
	Weight Limit - Bridge over Big Stoner Creek @ milepoint 7.00		
	TY I = 20 tons, TY II = 21 tons, TY III = 24 tons, TY IV = 38 tons		
	Weight Limit - Bridge over C&O Railroad @ milepoint 11.08		
	TY I = 20 tons, TY II = 20 tons, TY III = 22 tons, TY IV = 28 tons		
*	KY 89	15.9 US 60	16.0 KY 627
*	KY 418	5.7 KY 1924	5.8 KY 627
*	KY 627	0.0 Madison CO LN	6.4 KY 1958
	Weight Limit - Bridge over Kentucky River @ Boonesboro @ milepoint 0.01		
	TY I = 20 tons, TY II = 36 tons, TY III = 37 tons, TY IV = 47 tons		
		7.8 US 60	8.1 KY 89
		9.3 I-64	14.8 Bourbon CO LN

Weight Limit - Bridge over Woodruff Creek @ milepoint 13.20
TY I = 20 tons, TY II = 28 tons, TY III = 31 tons, TY IV = 40 tons
* KY 1924 0.0 Dale Power Plant 1.8 KY 418
* KY 1958 0.0 KY 627 2.8 I-64

CLAY COUNTY

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

Weight Limit - Bridge over Little Goose Creek Rd. @ milepoint 10.81
TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 60 tons
Weight Limit - Bridge over Urban Road @ milepoint 13.90
TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 60 tons
Weight Limit - Bridge over Hooker Road @ milepoint 16.14
TY I = 20 tons, TY II = 41 tons, TY III = 43 tons, TY IV = 60 tons
Weight Limit - Bridge over Ham Branch Rd. & Goose Creek @ milepoint 21.67
TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 57 tons
Weight Limit - Bridge over Red Bird River @ milepoint 33.58
TY I = 20 tons, TY II = 42 tons, TY III = 42 tons, TY IV = 56 tons

*	US 421	0.0 Leslie CO LN	32.8 Jackson CO LN

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

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

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

		8.9 US 421 (North)	26.6 Owsley CO LN

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

*	KY 66	0.0 Bell CO LN	1.8 Beverly Tipple
*	KY 80	4.8 New Truckers Tipple	7.5 US 421
*		KY 1524	0.0 US 421 1.1 KY 2000
*	KY 2000	0.0 KY 1524	4.6 Sand Hill RD
*	KY 2432	0.0 Sester Road	1.4 Panama SCH RD
*	KY 2438	0.0 US 421	0.1 KY 2432

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

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

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

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

CLINTON COUNTY

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

DAVIESS COUNTY

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

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

*	US 60	10.2 US 60 Bypass	28.0	Hancock CO LN
	Weight Limit - Bridge over L & N Railroad @ milepoint 11.78			
	TY I = 20 tons, TY II = 34 tons, TY III = 35 tons, TY IV = 44 tons			
	Weight Limit - Westbound Bridge over L & N RR @ milepoint 16.66			
	TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 60 tons			
	Weight Limit - Eastbound Bridge over Power Plant Entrance @ milepoint 16.66			
	TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 53 tons			
	Weight Limit - Bridge over Pup Creek @ milepoint 20.31			
	TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 45 tons			
*	US 60B	0.0 US 60	10.2	US 60
	Weight Limit - Bridge over US 431 @ milepoint 4.22			
	TY I = 20 tons, TY II = 42 tons, TY III = 42 tons, TY IV = 48 tons			
	Weight Limit - Bridge over L & N Railroad @ milepoint 4.84			
	TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 49 tons			
	Weight Limit - Bridge over Sutherland Road @ milepoint 5.08			
	TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 60 tons			
	Weight Limit - Bridge over Horse Fork Creek @ milepoint 5.65			
	TY I = 20 tons, TY II = 35 tons, TY III = 37 tons, TY IV = 60 tons			
	Weight Limit - Bridge over I C RR @ milepoint 7.71			
	TY I = 20 tons, TY II = 37 tons, TY III = 37 tons, TY IV = 48 tons			
	Weight Limit - Bridge over L&N RR & KY 2710 @ milepoint 9.77			
	TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 43 tons			
*	US 231	0.0 Ohio CO LN	11.3	US 60 Bypass
	Weight Limit - Bridge over Panther Creek @ milepoint 3.91			
	TY I = 20 tons, TY II = 41 tons, TY III = 43 tons, TY IV = 60 tons			
	Weight Limit - Bridge over Panther Creek @ milepoint 8.84			
	TY I = 20 tons, TY II = 44 tons, TY III = 45 tons, TY IV = 60 tons			
	Weight Limit - Bridge over overflow @ milepoint 8.94			
	TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 60 tons			
	Weight Limit - Bridge over overflow @ milepoint 9.22			
	TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 60 tons			
	Weight Limit - Bridge over Owensboro Beltline @ milepoint 11.29			
	TY I = 20 tons, TY II = 39 tons, TY III = 39 tons, TY IV = 60 tons			
*	KY 81	0.0 McLean CO LN	11.9	US 60 Bypass
	Weight Limit - Bridge over Panther Creek @ milepoint 6.50			
	TY I = 20 tons, TY II = 27 tons, TY III = 28 tons, TY IV = 43 tons			
*	KY 144	0.0 US 60	11.9	Flora RD
	Weight Limit - Bridge over L & N RR @ milepoint 0.16			
	TY I = 20 tons, TY II = 43 tons, TY III = 46 tons, TY IV = 50 tons			
*	KY 331	0.0 US 60 (East)	1.9	Mine
		(Via Industrial Dr. & Medley-Roost Rd.)		
*	KY 554	1.9 Mine	4.8	KY 81
*	KY 951	0.0 KY 144	2.9	Mine
*	Floral Road			
	CR 5035	0.0 KY 144	1.4	Mine
*	St Lawrence Road			
	CR 5036	1.6 Mine	1.8	Indian Hill Rd
*	Indian Hill Road			
	CR 5038	0.0 KY 951	0.5	St. Lawrence RD
*	Iceland Road			

ELLIOTT COUNTY

	ROAD	FROM		TO
*	KY 7	17.1 KY 409	19.3	Carter CO LN

FAYETTE COUNTY

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

FLEMING COUNTY

	ROAD	FROM	TO
*	US 68	0.0 Robertson CO LN	5.4 Mason CO LN
*	KY 11	0.0 Bath CO LN	17.2 Mason CO LN

Weight Limit - Bridge over Fleming Creek @ milepoint 7.80
TY I = 20 tons, TY II = 40 tons, TY III = 39 tons, TY IV = 54 tons
Weight Limit - Bridge over Cassidy Creek @ milepoint 8.77
TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons

FLOYD COUNTY

	ROAD	FROM	TO
*	US 23	0.0 Pike CO LN	24.1 Johnson CO LN

Weight Limit - Bridge over Levisa Fork Big Sandy River @ milepoint 10.76
TY I = 20 tons, TY II = 45 tons, TY III = 49 tons, TY IV = 56 tons
Weight Limit - Bridge over C&O RR @ milepoint 10.95
TY I = 20 tons, TY II = 45 tons, TY III = 48 tons, TY IV = 57 tons

*	KY 3	0.0 US 23 & KY 80	2.3 Blackhawk Tipple
*	KY 7	0.0 Knott CO LN	6.5 KY 80
*	KY 80	0.0 Knott CO LN	14.4 US 23 & KY 3
*	KY 114	0.0 Magoffin CO LN	11.4 US 23

Weight Limit - Bridge over Middle Creek @ milepoint 4.12
TY I = 20 tons, TY II = 44 tons, TY III = 46 tons, TY IV = 60 tons
Weight Limit - Bridge over C&O RR @ milepoint 10.41
TY I = 20 tons, TY II = 44 tons, TY III = 46 tons, TY IV = 56 tons
Weight Limit - Bridge over Middle Creek @ milepoint 10.60
TY I = 20 tons, TY II = 43 tons, TY III = 44 tons, TY IV = 55 tons

*	KY 122	8.5 KY 80	21.1 Spewing Camp Branch RD
		24.3 Mine	31.6 KY 466
*	KY 194	9.0 Addington Mine	12.2 Pike CO LN

Weight Limit - Bridge over Brushy Creek @ milepoint 12.15
TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 60 tons

*	KY 404	0.0 Magoffin CO LN	3.1 KY 850
		4.2 KY 1210	8.1 KY 114

Weight Limit - Bridge over Middle Creek @ milepoint 8.07
TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 60 tons

*	KY 466	2.3 Caleb FK RD	4.1 KY 122

Weight Limit - Bridge over Left Fork of Beaver Creek @ milepoint 2.58
TY I = 16 tons, TY II = 18 tons, TY III = 21 tons, TY IV = 37 tons
Weight Limit - Bridge over Left Fork of Beaver Creek @ milepoint 2.90
TY I = 15 tons, TY II = 15 tons, TY III = 15 tons, TY IV = 15 tons

*	KY 550	0.0 Knott CO LN	0.2 KY 7

Weight Limit - Bridge over Right Fork of Beaver Creek @ milepoint 0.06
TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 48 tons

*	KY 680	0.0 KY 122	0.9 KY 1929
		1.6 Joseph Mining Tipple	5.4 KY 979
*	KY 777	6.5 Mine	9.1 KY 80
*	KY 850	3.0 Mine	7.5 KY 404
*	KY 979	0.0 KY 122	19.3 US 23

Weight Limit - Bridge over Toler Creek @ milepoint 17.43
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons

*	KY 1091	0.0 Knott CO LN	1.2 KY 122

Weight Limit - Bridge over Left Fork of Beaver Creek @ milepoint 1.20
TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons

*	KY 1101	0.0 KY 122	0.1 Stonecoal Branch RD

Weight Limit - Bridge over Left Fork of Beaver Creek @ milepoint 0.90
TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 59 tons

*	KY 1210	0.0 KY 80	0.6 Mines
		7.1 Nerco-Hiller Tipple	7.8 KY 404

Weight Limit - Bridge over Middle Creek @ milepoint 7.76
TY I = 20 tons, TY II = 34 tons, TY III = 36 tons, TY IV = 59 tons

*	KY 1426	0.0 Pike CO LN	6.6 KY 979
		6.6 KY 979	9.5 Justice BR RD
		10.9 Mine	14.3 US 23

Weight Limit - Bridge over Levisa Fork of Big Sandy River @ milepoint 14.09
TY I = 20 tons, TY II = 49 tons, TY III = 49 tons, TY IV = 55 tons

*	KY 1428	6.2 US 23	8.8 KY 194
		14.1 Uptown Mining Mine	15.6 US 23

Weight Limit - Bridge over Little Paint Creek @ milepoint 14.85
TY I = 20 tons, TY II = 34 tons, TY III = 35 tons, TY IV = 44 tons

*	KY 1498	0.0 Knott CO LN	4.6 KY 122

Weight Limit - Bridge over Left Fork of Beaver Creek @ milepoint 4.59
TY I - 20 tons, TY II = 39 tons, TY III - 38 tons, TY IV = 60 tons

*	KY 1928	2.0 Ned FK RD	4.5 KY 680

*	KY 2030	0.0	KY 122	7.8 KY 1426
	Weight Limit - Bridge over Left Fork of Beaver Creek @ milepoint 0.10			
	TY I = 20 tons, TY II = 42 tons, TY III = 43 tons, TY IV = 56 tons			
*	KY 2557	0.0	Betsy Layne BR RD	0.3 US 23
*	KY 3188	0.8	Kanawha Mine	1.3 KY 80
*	KY 3379	0.0	Left Fork/Tinker Fork RD	7.0 KY 979
*	KY 3380	0.0	KY 979	0.6 Andy Branch RD
*	Powell Branch Road			
	CR 5022	0.0	Justell Bridge RD	0.3 Camp BR Branch RD
*	Justell Bridge Road			
	CR 5024F	0.0	US 23	0.1 Powell Branch RD
*	Ivy Creek RD			
	CR 5032	0.0	US 23	2.1 Mine
*	Bushy Fork Road			
	CR 5046	0.0	KY 194	0.8 Pike CO LN
*	Wolf Branch Road			
	CR 5046A	0.0	Bushy Fork Road	1.0 Martin CO LN
*	Bull Creek Road			
	CR 5055	0.0	KY 3	0.5 Cabin Coal Tipple
*	Camp Branch Road			
	CR 5078	0.0	Powell Branch RD	0.9 Right FK/Camp BR RD
*	Right Fork/Camp Branch Road			
	CR 5078A	0.0	Camp Branch RD	0.2 Prater Creek Mine
*	Transcontinental Road (Excluding Bridge)			
	CR 5083	0.0	Transcontinental Tip	0.8 US 23
*	Justice Branch Road			
	CR 5107	0.0	KY 1426	0.4 Right Fork Justice BR RD
*	Right Fork of Justice Branch RD			
	CR 5107A	0.0	Justice Branch RD	0.3 Island Creek Mine
*	Frog Branch Road			
	CR 5110	0.0	KY 2030	1.0 Maple Ridge Mine
*	Betsy Layne Branch Road			
	CR 5111	0.0	KY 2557	0.9 Somerset Coal Mine
*	Cedar Hill Road			
	CR 5118	0.0	KY 1426	0.2 Mine
*	Hamilton Branch RD			
	CR 5127	0.0	KY 1426	0.2 Bebe Mine
	Weight Limit - Bridge over Toler Creek			
	TY I = 20 tons, TY II = 20 tons, TY III = 23 tons, TY IV = 35 tons			
*	Parsons Branch Road			
	CR 5128	0.0	KY 979	0.2 Transcontinental Mine
	Weight Limit - Bridge over Mud Creek			
	TY I = 20 tons, TY II = 36 tons, TY III = 36 tons, TY IV = 36 tons			
*	Frasure Branch Road			
	CR 5134	0.0	KY 979	1.0 Joseph Mining Mine
*	Mink Branch Road			
	CR 5138	0.0	KY 979	1.2 Mine
	Weight Limit - Bridge over Big Mud Creek			
	TY I = 22 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons			
*	Dry Branch/Mud Creek Road			
	CR 5139	0.0	KY 979	1.1 Joseph Mining Mine
*	Ned Fork Road			
	CR 5140	0.0	KY 1929	1.1 Premium Elkhorn Shannon Mine
*	Branham Creek Road			
	CR 5142	0.0	KY 3379	0.6 Pike CO LN
*	Barn Branch Road			
	CR 5146	0.0	Branham Creek RD	0.3 Phyllis Coal Mine
*	Left Fork/Tinker Fork Road			
	CR 5147	0.0	Branham Creek RD	0.2 Wellmore Kodiak Mine
*	Andy Branch Road			
	CR 5148	0.0	Tinker Fork RD	0.5 Ensol Mine
*	Red Morg Branch Road			
	CR 5153	0.0	KY 979	0.9 Turner Elkhorn Mine
*	Buzzard Rock Road			
	CR 5157	0.2	Apache Mining Mine	0.5 Pike CO LN
*	Caleb Fork RD			
	CR 5175	0.0	KY 466	0.7 Pike County Haul RD
*	Spewing Camp Branch			
	CR 5190	0.0	KY 122	1.8 Mine
	Weight Limit - Bridge over Left Fork of Beaver Creek			
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons			
*	Little Muddy Creek Road			
	CR 5197	0.0	KY 2030	3.0 Bebe Mine

*	Upper Wolfpen Branch Road		
	CR 5197B	0.0 Little Muddy Creek RD	0.7 Prater Creek Mine
*	Hite Road		
	CR 5220	1.8 Hite RD-KY 122	1.9 Hite Prep Plant Connector RD
*	Hite Road-KY 122 Connector Road		
	CR 5220A	0.0 KY 122	0.1 Hite RD
*	Stonecoal Branch Road		
	CR 5234	0.0 KY 1101	1.6 Mine
*	Goose Creek Road		
	CR 5273	0.0 Gosling Branch RD	0.6 Transcontinental T&H Mine
*	Gosling Branch Road		
	CR 5274	0.0 KY 80	0.1 Goose Creek RD
*	Vine Street (Eastern)		
	CR 5283C	0.0 KY 80	0.1 May I Tipple
	Weight Limit - Bridge over Right Fork of Beaver Creek		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
*	Johnson Fork-Conley Fork Road		
	CR 5409	0.0 KY 1210	0.2 Amber Prep Plant

FRANKLIN COUNTY

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

GREENUP COUNTY

	ROAD	FROM	TO
*	US 23	0.0 Boyd CO LN	11.6 KY 2541
	Weight Limit - Bridge over Little Sandy River @ milepoint 11.41		
	TY I = 20 tons, TY II = 41 tons, TY III = 43 tons, TY IV = 57 tons		
*	KY 1	11.4 KY 207	17.3 US 23
*	KY 207	0.0 Carter CO LN	0.5 Logtown Hollow RD
		8.3 Woods RD	9.2 KY 1
*	Logtown Hollow Road		
	CR 5168	0.0 KY 207	0.5 Mine
*	Stepp Drive		
	CR 5216	0.0 KY 207	0.3 Mine
*	Schultz Branch Road		
	CR 5250	0.0 KY 2	1.0 Mine

HANCOCK COUNTY

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

HARLAN COUNTY

	ROAD	FROM	TO
*	US 119	0.0 Bell CO LN	39.7 Letcher CO LN
	Weight Limit - Bridge over Poore Fork Cumberland River @ milepoint 31.12		
	TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 53 tons		
	Weight Limit - Bridge over Poore Fork Cumberland River @ milepoint 33.32		
	TY I = 20 tons, TY II = 47 tons, TY III = 47 tons, TY IV = 55 tons		
	Weight Limit - Bridge over Clover Lick Creek @ milepoint 33.74		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
	Weight Limit - Bridge over Poor Fork @ milepoint 35.56		
	TY I = 20 tons, TY II = 45 tons, TY III = 47 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Poor Fork @ milepoint 38.91		
	TY I = 20 tons, TY II = 25 tons, TY III = 27 tons, TY IV = 35 tons		
	Weight Limit - Bridge over Poor Fork @ milepoint 39.61		
	TY I = 20 tons, TY II = 30 tons, TY III = 31 tons, TY IV = 44 tons		
*	US 421	0.0 Virginia State LN	17.6 US 119 (West)
	Weight Limit - Bridge over Cranks Creek @ milepoint 2.70		
	TY I = 20 tons, TY II = 29 tons, TY III = 30 tons, TY IV = 42 tons		
	Weight Limit - Bridge over Fork of Crummies Creek @ milepoint 7.36		
	TY I = 20 tons, TY II = 31 tons, TY III = 32 tons, TY IV = 40 tons		
	Weight Limit - Bridge over KY 840, L&N RR, Clover Fork @ milepoint 17.51		
	TY I = 20 tons, TY II = 42 tons, TY III = 43 tons, TY IV = 49 tons		
		17.6 US 119 (East)	27.4 Leslie CO LN

*	KY 38	0.0 US 421	13.3	Shields SCH RD
	Weight Limit - Bridge over Clover Fork Cumberland River @ milepoint 8.21			
	TY I = 20 tons, TY II = 44 tons, TY III = 45 tons, TY IV = 53 tons			
	Weight Limit - Bridge over Yocum Creek @ milepoint 8.60			
	TY I = 20 tons, TY II = 26 tons, TY III = 27 tons, TY IV = 38 tons			
	Weight Limit - Bridge over Clover Fork @ milepoint 12.90			
	TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 60 tons			
		16.7 Conveyor Dump Point	17.0	KY 179
*	KY 72	0.0 Bell CO LN	1.3	Mill Branch RD
		1.9 KY 2005	4.9	Rockhouse BR RD
	Weight Limit - Bridge over Puckett Creek @ milepoint 4.73			
	TY I = 20 tons, TY II = 26 tons, TY III = 27 tons, TY IV = 40 tons			
	Weight Limit - Bridge over Puckett Creek @ milepoint 4.84			
	TY I = 20 tons, TY II = 35 tons, TY III = 37 tons, TY IV = 60 tons			
		10.2 Mine	11.3	US 421
	Weight Limit - Bridge over Clover Fork Cumberland River @ milepoint 11.19			
	TY = 20 tons, TY II = 28 tons, TY III = 31 tons, TY IV = 31 tons			
*	KY 215	0.0 KY 38	0.2	Yocum Tipple
	Weight Limit - Bridge over Yocum Creek @ milepoint 1.06			
	TY I = 20 tons, TY II = 29 tons, TY III = 30 tons, TY IV = 49 tons			
*	KY 221	0.0 Bell CO LN	8.9	US 421 (South)
		8.9 US 421 (North)	21.6	KY 2008
*	KY 987	10.4 Wilder Branch RD	18.5	US 421
	Weight Limit - Bridge over Martins Fork Lake @ milepoint 12.72			
	TY I = 20 tons, TY II = 44 tons, TY III = 45 tons, TY IV = 55 tons			
	Weight Limit - Bridge over Martins Fork @ milepoint 15.07			
	TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 60 tons			
	Weight Limit - Bridge over Crummies Creek @ milepoint 18.52			
	TY I = 20 tons, TY II = 29 tons, TY III = 34 tons, TY IV = 41 tons			
*	KY 990	0.0 US 421	1.3	Coalgood Tipple
*	KY 1137	0.0 US 421	3.2	Mine Access RD
*	KY 2005	2.6 Lick Branch Culvert	5.1	KY 72
	Weight Limit - Bridge over Yocum Creek @ milepoint 5.08			
	TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons			
*	KY 2006	0.7 Mine	4.6	Arch of KY Tipple
*	KY 2008	0.0 Leslie CO LN	1.4	KY 221
*	KY 2009	0.0 KY 221	2.7	Leslie CO LN
	Weight Limit - Bridge over Fork of Laurel Fork Creek @ milepoint 1.51			
	TY I = 20 tons, TY II = 34 tons, TY III = 36 tons, TY IV = 59 tons			
	Weight Limit - Bridge over Laurel Fork Creek @ milepoint 2.72			
	TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 58 tons			
*	KY 3449	0.0 Forester's Creek RD	1.1	Kentucky Harlan Tipple
*	KY 3451	1.4 Mine	2.2	US 119
*	KY 3457	0.0 KY 38	0.5	Mine
*	KY 3462	0.0 US 421	0.8	Mine
*	KY 3465	0.0 KY 221	3.9	Leslie CO LN
*	Totz Road			
	CR 5007B	0.0 Haul RD	0.1	Totz Washer
*	Slack Cemetery Road			
	CR 5140	0.0 US 421 (North)	0.4	Tipple
*	Barn Branch Road			
	CR 5142	0.0 US 421	0.4	Mine Access RD
*	Grays Branch Road			
	CR 5206K	0.0 US 421 @ Grays Knob	0.4	Tipple
	Weight Limit - Bridge over Martins Fork			
	TY I = 20 tons, TY II = 20 tons, TY III = 20 tons, TY IV = 20 tons			
*	Foresters Creek Road			
	CR 5238	0.0 KY 3449	1.7	Mine Access RD
*	Rockhouse Branch Road			
	CR 5256	0.0 KY 72	0.2	R B Tipple
*	Gabes Branch Road			
	CR 5326E	0.0 KY 38	0.1	Brookside Tipple
*	Ages Creek Road			
	CR 5326M	0.0 KY 38	0.3	Mine
	Weight Limit - Bridge over Ages Branch			
	TY I = 20 tons, TY II = 27 tons, TY III = 33 tons, TY IV = 53 tons			
*	Big Run Hollow Road			
	CR 5344	2.1 Mine Access Road	2.6	Bell CO LN

HARRISON COUNTY

	ROAD	FROM	TO	
*	US 27	0.0 Bourbon CO LN	19.5	Pendleton CO LN
	Weight Limit - Bridge over South Fork Licking River @ milepoint 5.65			
	TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 57 tons			

Weight Limit - Bridge over L&N RR @ milepoint 6.28
TY I = 20 tons, TY II = 35 tons, TY III = 36 tons, TY IV = 45 tons
Weight Limit - Bridge over Indian Creek @ milepoint 7.09
TY I = 20 tons, TY II = 43 tons, TY III = 45 tons, TY IV = 58 tons
Weight Limit - Bridge over Sycamore Creek @ milepoint 9.09
TY I = 20 tons, TY II = 45 tons, TY III = 47 tons, TY IV = 60 tons
Weight Limit - Bridge over Two Lick Creek @ milepoint 10.40
TY I = 20 tons, TY II = 40 tons, TY III = 39 tons, TY IV = 57 tons
Weight Limit - Bridge over Curry Creek @ milepoint 13.27
TY I = 20 tons, TY II = 31 tons, TY III = 35 tons, TY IV = 50 tons
Weight Limit - Bridge over Richland Creek @ milepoint 19.18
TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 60 tons

HENDERSON COUNTY

	ROAD	FROM	TO
*	US 41	0.0 Webster CO LN	13.0 KY 812

Weight Limit - Bridge over King Creek @ milepoint 0.65
TY I = 20 tons, TY II = 41 tons, TY III = 44 tons, TY IV = 60 tons
Weight Limit - Bridge over East Fork of Cane Creek @ milepoint 6.20
TY I = 20 tons, TY II = 41 tons, TY III = 44 tons, TY IV = 60 tons
Weight Limit - Bridge over Dredged Ditch @ milepoint 6.32
TY I = 20 tons, TY II = 41 tons, TY III = 44 tons, TY IV = 60 tons

*	KY 416	7.8 Pennyrile Parkway	8.0 KY 2096

(Extended weight provision restricted to use by Type IV vehicles only.)

*	KY 812	5.6 Mine	7.4 US 41
*	KY 2096	0.0 KY 416	3.1 KY 2097

(Extended weight provision restricted to use by Type IV vehicles only.)

*	KY 2097	0.0 US 41	0.9 Bill Givens RD
*	Bill Givens Road CR 5142	0.0 Webster CO LN	0.1 KY 2097

HOPKINS COUNTY

	ROAD	FROM	TO
*	Western Kentucky Parkway	21.8 Caldwell CO LN	43.4 Muhlenberg CO LN

Weight Limit - Bridge over Tradewater River Overflow @ milepoint 22.00
TY I = 20 tons, TY II = 45 tons, TY III = 47 tons, TY IV = 60 tons
Weight Limit - Bridge over I.C. RR @ milepoint 24.89
TY I = 20 tons, TY II = 45 tons, TY III = 47 tons, TY IV = 60 tons
Weight Limit - Bridge over KY 112 & Copperas Creek @ milepoint 28.35
TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 52 tons
Weight Limit - Bridge over Oak Hill Rd. & I.C. RR @ milepoint 33.87
TY I = 20 tons, TY II = 45 tons, TY III = 47 tons, TY IV = 60 tons
Weight Limit - Bridge over Pennyrile Parkway @ milepoint 38.31
TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 56 tons

*	Pennyrile Parkway (Nontoll Segment) and US 41	29.6 US 41 (South)	45.2 Begin Toll Segment @ US 41(N)

Weight Limit - Bridge on exit ramp to U.S. 41 @ milepoint 45.2
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons

*	Pennyrile Parkway (Toll Segment)	45.2 End Nontoll Segment @ US 41 (North)	55.0 Webster CO LN

Weight Limit - Bridge over KY 138 @ milepoint 54.07
TY I = 20 tons, TY II = 40 tons, TY III = 41 tons, TY IV = 56 tons

*	US 41	0.0 Christian CO LN	2.3 Pennyrile Parkway (South)

Weight Limit - Bridge over Drakes Creek @ milepoint 0.49
TY I = 20 tons, TY II = 31 tons, TY III = 36 tons, TY IV = 53 tons
US 41 & Pennyrile Parkway (Nontoll Segment) included with Pennyrile Parkway Listing

		2.3 Pennyrile Parkway (North)	11.8 Webster CO LN

Weight Limit - Bridge over Otter Creek @ milepoint 6.13
TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons

*	US 41A	0.0 US 41	29.4 Webster CO LN

Weight Limit - Bridge over Crab Orchard Creek @ milepoint 0.82
TY I = 20 tons, TY II = 35 tons, TY III = 36 tons, TY IV = 56 tons
Weight Limit - Bridge over IC RR & Pleasant Run Creek @ milepoint 3.42
TY I = 20 tons, TY II = 35 tons, TY III = 36 tons, TY IV = 48 tons
Weight Limit - Bridge over L&N RR @ milepoint 6.59
TY I = 20 tons, TY II = 28 tons, TY III = 28 tons, TY IV = 34 tons
Weight Limit - Bridge over Pond Creek @ milepoint 22.86
TY I = 20 tons, TY II = 23 tons, TY III = 27 tons, TY IV = 43 tons

*	US 62	1.7 KY 109	21.3 Sextet Mine & Tipple

Weight Limit - Bridge over Copperas Creek @ milepoint 5.70
TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 60 tons
Weight Limit - Bridge over Cane Run Creek @ milepoint 7.94
TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 60 tons

Weight Limit - Bridge over Pleasant Run @ milepoint 12.51
TY I = 20 tons, TY II = 40 tons, TY III = 40 tons, TY IV = 60 tons
Weight Limit - Bridge over L&N RR, Fork Pleasant Run @ milepoint 14.89
TY I = 20 tons, TY II = 38 tons, TY III = 39 tons, TY IV = 58 tons
Weight Limit - Bridge over US 41 @ milepoint 15.64
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
Weight Limit - Bridge over Pleasant Run Creek @ milepoint 16.39
TY I = 20 tons, TY II = 40 tons, TY III = 40 tons, TY IV = 60 tons
Weight Limit - Bridge over Drakes Creek @ milepoint 16.72
TY I = 20 tons, TY II = 40 tons, TY III = 39 tons, TY IV = 54 tons

*	KY 70	4.5	Peter Howton Road	18.7 US 41A

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

		18.7	US 41A	26.4 Muhlenberg CO LN

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

*	KY 109	2.1	US 62	17.2 KY 814

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

*	KY 112	3.5	Mine Access RD	9.8 US 41A

Weight Limit - Bridge over Finley Ditch @ milepoint 5.85
TY I = 20 tons, TY II = 26 tons, TY III = 27 tons, TY IV = 46 tons
Weight Limit - Bridge over Unnamed Stream @ milepoint 8.06
TY I = 20 tons, TY II = 26 tons, TY III = 27 tons, TY IV = 46 tons
Weight Limit - Bridge over Unnamed Stream @ milepoint 8.26
TY I = 20 tons, TY II = 26 tons, TY III = 27 tons, TY IV = 46 tons

*	KY 262	0.0	KY 630	2.6 Bean Cemetery RD

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

*	KY 281	0.0	US 41A	0.7 Pennyrile Parkway

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

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

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

*	KY 630	0.0	KY 262	2.0 US 41A
*	KY 813	10.2	Mortons Gap-WH CTY RD	12.3 US 41A
*	KY 814	0.0	KY 109	1.4 Webster CO LN
*	KY 879 [870]	0.0	KY 112	0.2 Southard Church Road
		(Extended weights shall be available only for Types III and IV vehicles.)		
*	KY 1751	0.0	US 41A	1.4 US 41

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

*	KY 2086	0.0	Walnut Grove RD	1.2 KY 109
*	KY 2273	0.0	KY 109	0.2 Ferguson Town Spur RD
*	KY 2663	0.0	Mine Access RD	0.6 KY 2655
*	Old Hanson-Slaughters Road			
	CR 5073	0.0	Jasper Reynolds RD	0.4 KY 2655
*	Jasper Reynolds RD			
	CR 5081	0.0	US 41	0.4 Old Hanson RD
*	Herbert Brown RD			
	CR 5082	0.0	Old Hanson RD	0.1 KY 2655
*	McLeod Road			
	CR 5140	0.0	KY 3361)	0.3 Mine & Tipple
*	Mortons Gap-White City Road			
	CR 5153	0.0	KY 813	1.8 Mine
*	Wells Road			
	CR 5212	7.9	Barnsley Loop RD	8.7 Mine
*	Barnsley Loop Road			
	CR 5217	0.0	US 41A	1.5 Wells Road
*	Leonard Jackson Road			
	CR 5262	0.0	Dawson Daylight RD	1.0 Private Haul RD

	ROAD	FROM	TO
*	Walnut Grove Road		
	CR 5301	0.0 Mine	0.6 KY 2086
*	Dawson Daylight Road		
	CR 5305	0.0 KY 109	2.4 Leonard Jackson RD
*	Ferguson Town Spur Road		
	CR 5311	0.0 Ferguson Town RD	0.1 Roberts Bros Tipple
*	Peter Howton Road		
	CR 5330	0.0 KY 70	0.3 Mine
*	Bean Cemetery Road		
	CR 5396	0.4 Mine	2.9 KY 262
	Weight Limit - Bridge over Greasy Creek		
	TY I = 11 tons, TY II = 11 tons, TY III = 11 tons, TY IV = 11 tons		

JACKSON COUNTY

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

JEFFERSON COUNTY

	ROAD	FROM	TO
*	US 31E	0.0 Bullitt CO LN	5.5 KY 1065
	Weight Limit - Bridge over Floyd's Fork Creek @ milepoint 0.58		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
		16.7 US 42	17.8 US 31W @ Second Street
*	US 31W	3.2 Kosmos Cement CO	22.1 US 31E @ Second Street
*	US 42	0.0 US 31E	0.8 US 60
	Weight Limit - Bridge over Beargrass Creek @ milepoint 0.23		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
*	US 60	0.0 US 42 (Westbound)	17.4 Shelby CO LN
	Weight Limit - Bridge over Floyd's Fork @ milepoint 13.56		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
	Weight Limit - Bridge over Longrun Creek @ milepoint 15.79		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
*	KY 841	0.0 US 31W	6.1 KY 1865
*	KY 864	4.3 KY 1065 (East)	4.4 KY 1065 (West)
*	KY 1065	1.0 KY 1865	10.0 KY 864
	Weight Limit - Bridge over Northern Ditch @ milepoint 1.40		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
	Weight Limit - Bridge over I-65 @ milepoint 4.75		
	TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 60 tons		
		10.0 KY 864	11.9 US 31E
*	KY 1865	0.9 KY 841	1.3 KY 1065
*	KY 1934	5.5 Ralph AVE	8.4 US 31W
*	KY 2056	0.4 B.F. Goodrich Plant	1.1 I-264
*	Ralph Avenue (Louisville)		
		0.9 KY 1934	1.8 Dupont Plant

JESSAMINE COUNTY

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

JOHNSON COUNTY

	ROAD	FROM	TO
*	US 23	0.0 Floyd CO LN	18.4 Lawrence CO LN
	Weight Limit - Bridge over C&O RR & Levisa Fork @ milepoint 3.53		
	TY I = 20 tons, TY II = 28 tons, TY III = 33 tons, TY IV = 38 tons		
	Weight Limit - Bridge over Paint Creek @ milepoint 8.68		
	TY I = 20 tons, TY II = 43 tons, TY III = 44 tons, TY IV = 55 tons		
*	US 460	0.0 Magoffin CO LN	8.3 US 23
*	KY 3	3.1 Lacker Branch RD	4.7 Martin CO LN
*	KY 40	7.2 KY 172	8.7 US 460
		8.7 US 23	13.3 Deadfall Branch RD

	ROAD	FROM	TO
*	KY 172	6.9 Joe Salyers Branch RD	12.4 KY 40
	Weight Limit - Bridge over Mudlick Creek @ milepoint 11.91		
	TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 55 tons		
*	KY 302	2.8 KY 2381	6.5 KY 3
*	KY 2381	0.0 US 23	2.2 KY 302
*	Deadfall Branch Road		
	CR 5139	0.0 KY 40	0.6 Mine Access Road

KNOTT COUNTY

	ROAD	FROM	TO
*	KY 7	2.5 KY 1498	16.0 Floyd CO LN
	Weight Limit - Bridge over Beaver Fork @ milepoint 6.10		
	TY I = 20 tons, TY II = 40 tons, TY III = 41 tons, TY IV = 60 tons		
*	KY 15	0.0 Letcher CO LN	9.4 Perry CO LN
	Weight Limit - Bridge over Carr Fork Reservoir @ milepoint 2.82		
	TY I = 20 tons, TY II = 45 tons, TY III = 49 tons, TY IV = 55 tons		
	Weight Limit - Bridge over Carr Fork Lake @ milepoint 5.64		
	TY I = 20 tons, TY II = 39 tons, TY III = 42 tons, TY IV = 60 tons		
*	KY 80	0.0 Perry CO LN	21.1 Floyd CO LN
*	KY 160	0.0 KY 15	5.8 A K P Coal Mine
	Weight Limit - Bridge over Carr Fork Lake @ milepoint 1.74		
	TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 56 tons		
		8.2 KY 1393	13.9 Patsy Jayne Mine
*	KY 550	23.8 Big Springs RD	26.6 Floyd CO LN
	Weight Limit - Bridge over Jones Fork @ milepoint 25.30		
	TY I = 20 tons, TY II = 30 tons, TY III = 31 tons, TY IV = 44 tons		
*	KY 899	7.7 National Mines Mine	12.2 KY 7
	Weight Limit - Bridge over Caney Creek @ milepoint 8.74		
	TY I = 20 tons, TY II = 34 tons, TY III = 35 tons, TY IV = 44 tons		
	Weight Limit - Bridge over Caney Creek @ milepoint 11.82		
	TY I = 20 tons, TY II = 40 tons, TY III = 40 tons, TY IV = 60 tons		
*	KY 1087	1.4 KY 3209	3.4 Mountain Clay Mine
		9.6 C & D Coal Mine	14.1 KY 80
*	KY 1088	3.9 Young's Fork RD	9.4 KY 15
	Weight Limit - Bridge over Yellow Creek @ milepoint 9.12		
	TY I = 20 tons, TY II - 36 tons, TY III = 38 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Carr Creek @ milepoint 9.36		
	TY I = 20 tons, TY II = 38 tons, TY III = 39 tons, TY IV = 56 tons		
*	KY 1091	0.0 KY 7	2.2 Floyd CO LN
	Weight Limit - Bridge over Right Fork of Beaver Creek @ milepoint 0.01		
	TY I = 20 tons, TY II = 41 tons, TY III = 43 tons, TY IV = 60 tons		
*	KY 1098	0.0 Breathitt CO LN	12.0 KY 1087
	Weight Limit - Bridge over Laurel Fork Quicksand Creek @ milepoint 6.94		
	TY I = 20 tons, TY II = 29 tons, TY III = 30 tons, TY IV = 49 tons		
*	KY 1102	1.1 Sandlick Branch RD	2.7 KY 80
*	KY 1231	0.0 KY 15	1.2 Flax Patch Branch RD
*	KY 1393	2.8 KY 899	4.9 KY 160
*	KY 1410	0.0 KY 160	4.7 Letcher CO LN
	Weight Limit - Bridge over Carr Fork @ milepoint 0.01		
	TY I = 20 tons, TY II = 44 tons, TY III = 45 tons, TY IV = 55 tons		
*	KY 1498	0.5 KY 7	1.5 Floyd CO LN
*	KY 3209	0.0 KY 80	0.4 KY 1087
	Weight Limit - Bridge over Ball Fork @ milepoint 0.05		
	TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 60 tons		
*	KY 3391	0.0 KY 1231	1.7 Madden Creek RD
*	Potato Branch RD		
	CR 5005	0.0 KY 7	1.1 Wheelwright Mine
	Weight Limit - Bridge over Right Fork of Beaver Creek		
	TY I = 20 tons, TY II = 23 tons, TY III = 26 tons, TY IV = 44 tons		
*	Patten Branch of Beaver Creek Road		
	CR 5009	0.0 KY 7	0.2 National Mines Mine
*	Big Springs Branch Road		
	CR 5032	0.0 KY 550	0.9 National Mines Mine
	Weight Limit - Bridge over Jones Fork		
	TY I = 19 tons, TY II = 20 tons, TY III = 23 tons, TY IV = 39 tons		
*	Triplett Branch Road		
	CR 5033	0.0 KY 550	0.8 National Mines Mine
*	Rock Fork (Bolyn) Road		
	CR 5037	0.0 KY 80	0.8 Consolidation Mine
*	Bates Branch Road		
	CR 5117	0.0 KY 7	1.4 Wheelwright Mine
*	Perkins Branch-Lick Branch Road		
	CR 5145	0.0 KY 15	0.4 Southeast Coal Mine
*	Runnells Branch Road		
	CR 5156	0.0 KY 160	0.5 Left FK Runnells BR RD

*	Left Fork of Runnells Branch Road		
	CR 5156A	0.0 Runnells Branch RD	0.3 Golden Oak Mine
*	Irishman Creek Road		
	CR 5203	0.0 KY 1231	0.8 R J F Coal Mine
*	Flax Patch Branch Road		
	CR 5208	0.0 KY 1231	0.5 Allied Coals Mine
*	Defeated Creek Road		
	CR 5212	0.0 KY 15	3.2 Meade & Shepherd Mine
*	Young's Fork Road		
	CR 5226	0.0 KY 1088	1.3 Kentucky Prince Mine
*	Middle Fork of Quicksand Creek Road		
	CR 5312	0.0 Decoy-Spring Fork RD	1.0 Big Branch of Quicksand Creek RD
*	Big Branch of Quicksand Creek Road		
	CR 5314	0.0 Miller Branch Mine	1.2 Middle Fork of Quicksand Creek RD
*	Decoy-Spring Fork Road		
	CR 5315	0.0 Breathitt CO LN	1.1 Middle Fork of Quicksand Creek Road
*Sandlick Branch Road			
	CR 5336	0.0 KY 1102	0.9 McCoy Coal Mine

KNOX COUNTY

	ROAD	FROM	TO
*	US 25E	0.0 Bell CO LN	26.6 Laurel CO LN
	Weight Limit - Bridge over Cumberland River @ milepoint 0.85		
	TY I = 20 tons, TY II = 33 tons, TY III = 33 tons, TY IV = 40 tons		
	Weight Limit - Bridge over L&N RR @ milepoint 1.54		
	TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 51 tons		
	Weight Limit - Bridge over Stinking Creek @ milepoint 3.70		
	TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 48 tons		
	Weight Limit - Bridge over Turkey Creek @ milepoint 4.81		
	TY I = 20 tons, TY II = 35 tons, TY III = 36 tons, TY IV = 51 tons		
*	KY 6	0.0 Whitley CO LN	14.7 KY 11
	Weight Limit - Bridge over Lynn Camp Creek @ milepoint 0.23		
	TY I = 20 tons, TY II = 29 tons, TY III = 30 tons, TY IV = 49 tons		
	Weight Limit - Bridge over Stewards Creek @ milepoint 0.83		
	TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Indian Creek @ milepoint 6.15		
	TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Tributary of Indian Creek @ milepoint 6.85		
	TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Indian Creek @ milepoint 8.37		
	TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons		
*	KY 11	0.0 Whitley CO LN	10.1 US 25E
	Weight Limit - Bridge over Little Poplar Creek @ milepoint 2.17		
	TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 51 tons		
		10.1 US 25E	22.7 Clay CO LN
	Weight Limit - Bridge over Little Richland Creek @ milepoint 13.00		
	TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Little Richland Creek @ milepoint 13.39		
	TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Little Richland Creek @ milepoint 13.57		
	TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 60 tons		
*	KY 225	5.9 Kayjay Mine	15.0 US 25E
*	KY 312	0.0 Whitley CO LN	1.3 US 25E
*	KY 930	0.0 KY 225	4.1 US 25E
	Weight Limit - Bridge over Stinking Creek @ milepoint 1.77		
	TY I = 20 tons, TY II = 31 tons, TY III = 33 tons, TY IV = 50 tons		
*	KY 1809	0.0 Whitley CO LN	6.3 KY 11
*	KY 2421	0.0 KY 225	0.9 KY 11
*	Alex Creek Road		
	CR 5031	1.7 Straight Creek RD	2.2 Mine
*	Straight Creek Road		
	CR 5032	0.0 Bell CO LN	0.8 Alex Creek RD
*	Little Brush Creek Road		
	CR 5166	0.0 KY 225	1.6 Lay Branch RD
	Weight Limit - Bridge over Brush Creek		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
*	Lay Branch Road		
	CR 5169	0.0 Little Brush CK RD	0.8 Mine
*	Swan Pond Road		
	CR 5209	0.0 KY 11	1.9 Mine
*	Stoney Fork Road		
	CR 5210	0.0 KY 1809	1.0 Mine

	ROAD	FROM	TO
*	Hubbs Road		
	CR 5214	0.0 KY 1809	1.5 Girdner #1 Mine
	Weight Limit - Bridge over Hubbs Creek east of Bryant's Store		
	TY I = 20 tons, TY II = 24 tons, TY III = 28 tons, TY IV = 47 tons		
	Weight Limit - Bridge over Hubbs Creek @ Bain Branch		
	TY I = 3 tons, TY II = 3 tons, TY III = 3 tons, TY IV = 3 tons		
*	Sugartree Road		
	CR 5216	0.0 Hubbs RD	0.5 Terco #1 Mine
	Weight Limit - Bridge over Hubbs Creek		
	TY I = 4 tons, TY II = 4 tons, TY III = 4 tons, TY IV = 4 tons		
*	Davis Branch Road		
	CR 5224	0.0 KY 1809	0.1 Mine
*	Dowis Road		
	CR 5248	0.0 KY 6	0.9 Mosley Branch RD
*	Middle Fork Richland Creek Road		
	CR 5311	0.9 Higgins Road	1.2 H & P Mine
*	Higgins Road		
	CR 5323	0.0 US 25E	0.8 Richland Creek RD

LAUREL COUNTY

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

LAWRENCE COUNTY

	ROAD	FROM	TO
*	US 23	0.0 Johnson CO LN	30.2 Boyd CO LN
*	KY 1	0.0 KY 3	5.0 Olioville-Coal Branch RD
		12.8 KY 201	14.1 Carter CO LN
*	KY 3	0.0 Martin CO LN	15.5 US 23
	Weight limit - Bridge over Levisa & Tug Forks @ milepoint 14.87		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
		24.4 KY 1398	24.7 KY 1

*	KY 3S	0.0 KY 3	0.1	West Virginia State LN
	Weight Limit - Bridge over Levisa & Tug Forks @ milepoint 0.01			
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons			
*	KY 32	8.5 Lower Laurel Creek RD	28.9	US 23
	Weight Limit - Bridge over Cains Creek @ milepoint 9.53			
	TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 60 tons			
	Weight Limit - Bridge over Blaine Creek @ milepoint 10.10			
	TY I = 20 tons, TY II = 31 tons, TY III = 32 tons, TY IV = 54 tons			
	Weight Limit - Bridge over Hood Creek @ milepoint 10.85			
	TY I = 20 tons, TY II = 36 tons, TY III = 37 tons, TY IV = 60 tons			
	Weight Limit - Bridge over Brushy Creek @ milepoint 16.05			
	TY I = 20 tons, TY II = 32 tons, TY III = 33 tons, TY IV = 54 tons			
	Weight Limit - Bridge over Rich Creek @ milepoint, 18.39			
	TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 59 tons			
	Weight Limit - Bridge over Blaine Creek @ milepoint 22.55			
	TY I = 20 tons, TY II = 35 tons, TY III = 37 tons, TY IV = 60 tons			
	Weight Limit - Bridge over Russey Branch @ milepoint 23.46			
	TY I = 20 tons, TY II = 35 tons, TY III = 37 tons, TY IV = 60 tons			
*	KY 201	5.0 KY 32	18.2	KY 1
	Weight Limit - Bridge over Dry Fork Creek @ milepoint 18.13			
	TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons			
*	KY 645	0.0 US 23	5.2	Martin CO LN
*	KY 1690	1.5 KY 645	1.7	KY 2033
*	KY 1760	0.0 US 23	2.8	Georges Creek RD
*	KY 2033	1.3 KY 1690	3.3	Richardson Mine
*	KY 3398	0.0 US 23	2.3	KY 3
*	Donithon Branch Road			
	CR 5118	0.0 KY 3	1.6	Lockworth Mine
*	Georges Creek Road			
	CR 5156	0.0 KY 1760	1.5	Left FK Brushy CR RD
*	Left Fork Brushy Creek Road			
	CR 5203	0.0 Georges Creek Road	0.8	Mine
*	Lower Laurel Creek Road			
	CR 5221	0.0 KY 32	1.7	Black Wells Mine
	Weight Limit - Bridge over Lower Laurel Creek			
	TY I = 5 tons, TY II = 5 tons, TY III = 5 tons, TY IV = 5 tons			
	Weight Limit - Bridge over Lower Laurel Creek			
	TY I = 10 tons, TY II = 10 tons, TY III = 10 tons, TY IV = 10 tons			
*	Olioville-Coal Branch Road			
	CR 5311	0.0 KY 1	0.3	Mine

LESLIE COUNTY

	ROAD	FROM	TO	
*	Daniel Boone Parkway	35.9 Clay CO LN	51.0	Perry CO LN
*	US 421	0.0 Harlan CO LN	6.3	Mine
		20.6 KY 2431	22.6	KY 18
		26.8 Wet Rockhouse Branch	35.4	Clay CO LN
*	KY 80	0.0 US 421	9.7	Perry CO LN
	Weight Limit - Bridge over Cutshin Creek @ milepoint 5.15			
	TY I = 20 tons, TY II = 27 tons, TY III = 28 tons, TY IV = 43 tons			
	Weight Limit - Bridge over Wooton Creek @ milepoint 6.12			
	TY I = 20 tons, TY II = 29 tons, TY III = 30 tons, TY IV = 46 tons			
	Weight Limit - Bridge over MacIntosh Creek @ milepoint 8.84			
	TY I = 20 tons, TY II = 25 tons, TY III = 26 tons, TY IV = 42 tons			
*	KY 118	0.0 US 421	3.5	Daniel Boone PKWY
*	KY 699	0.0 KY 80	13.6	Old Big Rock RD
	Weight Limit - Bridge over Cutshin Creek @ milepoint 1.96			
	TY I = 20 tons, TY II = 35 tons, TY III = 36 tons, TY IV = 43 tons			
	Weight Limit - Bridge over Maggard Creek @ milepoint 8.14			
	TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons			
		15.2 Mine	16.0	Perry CO LN
*	KY 1807	0.0 KY 80	3.6	Mine Access RD
*	KY 2008	0.0 KY 2009	3.0	Mine Access RD
		5.2 Mine	8.2	Harlan CO LN
*	KY 2009	0.0 Harlan CO LN	5.4	Bledsoe Tipple
	Weight Limit - Bridge over Greasy Creek @ milepoint 3.58			
	TY I = 8 tons, TY II = 8 tons, TY III = 8 tons, TY IV = 8 tons			
*	KY 2057	0.0 KY 699	3.1	Bear BR RD
*	KY 2431	0.0 US 421	0.1	High School
	Weight Limit - Bridge over Middle Fork Kentucky River @ milepoint 0.01			
	TY I = 20 tons, TY II = 27 tons, TY III = 28 tons, TY IV = 32 tons			
*	Wendover Road			
	CR 5001	0.0 KY 2431	1.6	Hurricane Creek RD

	ROAD	FROM	TO
*	Hurricane Creek Road		
	CR 5002	2.2 Camp Creek RD	3.3 Wendover RD
*	Camp Creek Road		
	CR 5005	0.0 Hurricane Creek RD	0.7 Tipple Access
*	Bear Branch Road		
	CR 5018	0.0 KY 2057	1.4 Mine & Perry CO LN
*	Bailey Branch Road		
	CR 5027	0.0 KY 1807	0.6 Mine
*	Long Branch Road		
	CR 5118	0.0 KY 699	0.2 Mine
*	Old Big Rock Road		
	CR 5126	0.0 KY 699	0.6 Right Fork of Cutshin RD
	Weight Limit - Bridge over Cutshin Creek		
	TY I = 18 tons, TY II = 18 tons, TY III = 18 tons, TY IV = 18 tons		
*	Right Fork of Cutshin Road		
	CR 5128	0.0 Old Big Rock RD	3.7 Mine
*	Abner Branch Road		
	CR 5133	0.0 Harlan CO LN	1.3 KY 2008
*	White Oak Road		
	CR 5135	0.0 KY 2008	0.8 Mine
*	Phillips Fork Road		
	CR 5225	5.0 Mine RD	5.2 Mine RD

LETCHER COUNTY

	ROAD	FROM	TO
*	US 23	0.0 Virginia State LN	7.1 Pike CO LN
	Weight Limit - Bridge over Elkhorn Creek @ milepoint 5.83		
	TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 48 tons		
*	US 119	0.0 Harlan CO LN	7.0 Scotia Mine Tipple
		20.7 KY 1862	27.7 US 23
*	KY 7	0.0 Perry CO LN	25.2 KY 317
	Weight Limit - Bridge over Line Fork @ milepoint 0.17		
	TY I = 20 tons, TY II = 25 tons, TY III = 29 tons, TY IV = 34 tons		
	Weight Limit - Bridge over North Fork Kentucky River @ milepoint 2.61		
	TY I = 20 tons, TY II = 32 tons, TY III = 33 tons, TY IV = 48 tons		
	Weight Limit - Bridge over Elk Creek @ milepoint 5.28		
	TY I = 20 tons, TY II = 36 tons, TY III = 38 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Gaudill Branch @ milepoint 8.04		
	TY I = 20 tons, TY II = 41 tons, TY III = 44 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Rockhouse Creek @ milepoint 22.31		
	TY I = 20 tons, TY II = 39 tons, TY III = 39 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Rockhouse Creek @ milepoint 24.78		
	TY I = 20 tons, TY II = 35 tons, TY III = 37 tons, TY IV = 48 tons		
*	KY 15	2.7 KY 931	9.2 KY 7
		9.2 KY 7	10.7 Knott CO LN
*	KY 160	13.4 Lucky Branch RD	21.8 KY 15
	Weight Limit - Bridge over Kings Creek @ milepoint 14.73		
	TY I = 20 tons, TY II = 32 tons, TY III = 33 tons, TY IV = 51 tons		
*	KY 317	0.0 KY 805	0.4 Mine
		1.0 KY 343	8.9 KY 7
*	KY 343	0.0 KY 317	1.5 #2 Hollow Road
	Weight Limit - Bridge over Yount's Fork Creek @ milepoint 0.08		
	TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons		
	Weight Limit - Bridge over Wright's Fork @ milepoint 0.46		
	TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons		
	Weight Limit - Bridge over Wright's Fork @ milepoint 0.65		
	TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons		
*	KY 588	3.7 Tolson Loading	5.0 KY 160
		5.0 KY 160	11.0 Mine
*	KY 805	0.0 US 119	3.1 KY 317
*	KY 931	7.7 Hampton Branch RD	*
		16.4 Clay Hollow	18.4 KY 7
*	KY 1103	6.0 Private Haul RD	8.2 Tolby Branch RD
*	KY 1410	0.0 Knott CO LN	1.6 KY 7
*	KY 1862	1.2 KY 3410	1.7 US 119
		6.4 Mine	9.9 KY 931
*	KY 3410	0.0 Cram Creek-Pert Creek RD	1.1 KY 1862
*	Clay Hollow Road		
	CR 5010	0.0 KY 931	0.2 Golden Oak Mine
*	Beaverdam Branch Road		
	CR 5047	0.0 KY 7	2.7 Mine
*	Bottom Fork Road		
	CR 5068L	0.2 Tammy Ann Mine	0.7 #2 Hollow Road

* #2 Hollow Road
CR 5068M 0.0 Bottom Fork Road 0.6 KY 343
* Marshall Branch Road
CR 5103 0.0 Pike CO LN 0.3 Pike CO LN
* Cram Creek Road
CR 5169 0.9 Wampler Bros Mine 1.4 KY 3410
* Kingdom Come Creek Road
CR 5229 0.0 Ky 588 1.2 Lake Coal Mine
Weight Limit - Bridge over Kingdom Come Creek
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
* Big Branch-Tolson Branch Road
CR 5258 0.0 KY 588 1.4 Lake Coal Mine
* Whitaker Branch Road
CR 5259 1.4 Mine 2.5 Big BR-Tolson BR RD
* Defeated Creek Road
CR 5265 5.1 Southeast Mine 5.6 KY 1103
Weight Limit - Bridge over Line Fork Creek
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
* Lucky Branch Road
CR 5272 0.0 KY 160 0.4 Lake Coal Mine
* Johnson Branch Road
CR 5309 0.0 KY 160 0.3 Whitaker Mine
* Bee Tree Branch Road
CR 5311 0.0 KY 160 1.0 Lake Coal Mine
* Hollybush Branch Road
CR 5312 0.0 KY 160 0.4 Golden Oak Mine
* Stamper's Branch Road
CR 5335 0.0 KY 7 0.8 Whitaker Mine
* Hicks Branch Road
CR 5338 0.0 KY 7 0.1 Isom #2 Tipple
Weight Limit - Bridge over Rockhouse Creek
TY I = 9 tons, TY II = 9 tons, TY III = 9 tons, TY IV = 9 tons
* Caudill Creek Road
CR 5354 0.0 KY 7 2.3 Golden Oak Mine

LINCOLN COUNTY

	ROAD	FROM	TO
*	US 27	17.2 US 150	18.0 US 150 Bypass
*	US 150	0.0 Boyle CO LN	4.3 US 150 Bypass

Weight Limit - Bridge over Hanging Fork Creek @ milepoint 1.81
TY I = 20 tons, TY II = 43 tons, TY III = 44 tons, TY IV = 58 tons
6.4 US 27 19.7 Rockcastle CO LN
Weight Limit - Bridge over Logans Creek @ milepoint 7.04
TY I = 20 tons, TY II = 36 tons, TY III = 38 tons, TY IV = 60 tons
Weight Limit - Bridge over L&N RR @ milepoint 18.62
TY I = 20 tons, TY II = 36 tons, TY III = 39 tons, TY IV = 60 tons
Weight Limit - Bridge over Turkey Creek @ milepoint 19.35
TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 60 tons

*	US 150B	0.0 US 150	1.1 US 27

LIVINGSTON COUNTY

	ROAD	FROM	TO
*	US 62	0.0 Marshall CO LN	2.9 Lyon CO LN

Weight Limit - Bridge over Kentucky Lake Dam Lock @ milepoint 0.31
TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 55 tons
Weight Limit - Bridge over I.C. Gulf R.R. @ milepoint 0.64
TY I = 20 tons, TY II = 39 tons, TY III = 38 tons, TY IV = 51 tons
Weight Limit - Bridge over Reed's Haul Road @ milepoint 0.97
TY I = 20 tons, TY II = 43 tons, TY III = 44 tons, TY IV = 54 tons
Weight Limit - Bridge over Cumberland River @ milepoint 2.78
TY I = 20 tons, TY II = 26 tons, TY III = 29 tons, TY IV = 38 tons

*	KY 453	0.5 B R T Dock	2.8 US 62

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

LOGAN COUNTY

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

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

Weight Limit - Bridge over Dry Fork @ milepoint 5.93
TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 54 tons

LYON COUNTY

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

McCREARY COUNTY

	ROAD	FROM	TO
*	US 27	0.0 Tennessee State LN	22.7 Pulaski CO LN
*	KY 92	17.3 Railroad DR	28.4 Whitley CO LN
	Weight Limit - Bridge over Marsh Creek @ milepoint 25.42		
	TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 59 tons		
*	KY 1673	0.0 Whitley CO LN	0.6 Whitley CO LN
*	Railroad Drive		
	CR 5203	0.0 KY 92	0.3 Revelo Prep Plant
*	Bauer Road		
	CR 5333	0.0 US 27	3.8 Pulaski CO LN

McLEAN COUNTY

	ROAD	FROM	TO
*	KY 81	12.8 KY 1792	18.3 Daviess CO LN
*	KY 136	11.1 KY 1792	12.9 KY 81
	Weight Limit - Bridge over Long Falls Creek @ milepoint 11.26		
	TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 56 tons		
*	KY 140	0.0 KY 256	0.1 KY 1792
*	KY 256	5.6 Mine	5.9 KY 140
*	KY 1792	0.0 KY 140	2.6 KY 136
	Weight Limit - Bridge over Porters Drainage Ditch @ milepoint 0.92		
	TY I = 20 tons, TY II = 28 tons, TY III = 30 tons, TY IV = 48 tons		

MADISON COUNTY

	ROAD	FROM	TO
*	KY 627	0.1 I-75	6.2 Clark CO LN
	Weight Limit - Bridge over I-75 @ milepoint 0.11		
	TY I = 20 tons, TY II = 44 tons, TY III = 45 tons, TY IV = 60 tons		

MAGOFFIN COUNTY

	ROAD	FROM	TO
*	Mountain PKWY (KY 402)		
		71.7 KY 30	75.6 US 460
	Weight Limit - Bridge over Licking River @ milepoint 74.51		
	TY I = 20 tons, TY II = 39 tons, TY III = 40 tons, TY IV = 50 tons		
*	US 460	0.0 Morgan CO LN	20.4 Johnson CO LN
	Weight Limit - Bridge over Licking River @ milepoint 1.75		
	TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 42 tons		
	Weight Limit - Bridge over State Road Fork Creek @ milepoint 11.35		
	TY I = 20 tons, TY II = 32 tons, TY III = 33 tons, TY IV = 44 tons		
*	KY 7	3.2 Mine Access RD	23.9 Mountain Parkway (KY 402)
	Weight Limit - Bridge over Licking River @ milepoint 5.79		
	TY I = 20 tons, TY II = 33 tons, TY III = 35 tons, TY IV = 57 tons		
*	KY 30	4.5 Mine Access RD	8.9 Mountain Parkway (KY 402)
	Weight Limit - Bridge over Middle Fork @ milepoint 7.55		
	TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 48 tons		
*	KY 114	0.0 US 460	5.0 Floyd CO LN
*	KY 404	0.0 KY 7	2.7 Floyd CO LN
*	KY 542	0.0 Breathitt CO LN	5.8 KY 7
*	KY 867	4.0 Mine Access RD	5.7 KY 7
		5.7 KY 7	7.4 Hickory Tipple
*	KY 1471	0.0 Big Half Mountain RD	4.3 KY 7
	Weight Limit - Bridge over Licking River @ milepoint 3.96		
	TY I = 15 tons, TY II = 15 tons, TY III = 15 tons, TY IV = 15 tons		
*	KY 1635	0.0 Tiptop-Bettsmann RD	5.7 KY 867
*	Brushy Fork Road		
	CR 5132	0.0 KY 7	1.0 Mine
*	Bull Creek Road		
	CR 5140	0.0 KY 7	0.4 Mine
*	Jake Wireman Road		
	CR 5144	0.0 KY 1502	1.0 Mines
*	Beetree Branch Road		
	CR 5145	0.0 KY 7	0.7 Mine

	ROAD	FROM	TO
*	Big Half Mountain Road		
	CR 5148	0.0 Mine	0.5 KY 1471
	Weight Limit - Bridge over Big Half Mountain Creek		
	TY I = 5 tons, TY II = 5 tons, TY III = 5 tons, TY IV = 5 tons		
*	Wright Oakley Creek Road		
	CR 5221	0.0 KY 1635	0.3 Mine
	Weight Limit - Bridge over Oakley Creek		
	TY I = 6 tons, TY II = 6 tons, TY III = 6 tons, TY IV = 6 tons]		
*	Tiptop-Bettsmann Branch Road		
	CR 5225B	0.0 Breathitt CO LN	0.7 KY 1635

MARSHALL COUNTY

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

MARTIN COUNTY

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

MASON COUNTY

	ROAD	FROM	TO
*	US 62	12.7 US 68	17.4 KY 10 (West)

*	US 68	0.0 Fleming CO LN	11.9	US 62
*	KY 8	0.0 Bracken CO LN	11.0	KY 10
	Weight Limit - Bridge over Phillips Creek @ milepoint 7.11			
	TY I = 20 tons, TY II = 32 tons, TY III = 33 tons, TY IV = 39 tons			
*	KY 10	9.7 US 68	15.9	Spring Creek RD
	Weight Limit - Bridge over L&N RR @ milepoint 9.79			
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons			
	Weight Limit - Bridge over Bull Fork @ milepoint 13.30			
	TY I = 20 tons, TY II = 40 tons, TY III = 40 tons, TY IV = 60 tons			
*	KY 11	0.0 Fleming CO LN	11.3	US 62
	Weight Limit - Bridge over Mill Creek @ milepoint 0.16			
	TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 59 tons			
*	Spring Creek Road			
	CR 5012	0.0 KY 10	1.8	Cabin Creek PK
	Weight Limit - Bridge over Spring Creek 1.2 miles east of Plumville			
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons			
	Weight Limit - Bridge over Spring Creek @ Cabin Creek Pike			
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons			
*	Cabin Creek Pike			
	CR 5013	0.0 Spring Creek RD	0.7	Dravo Lime CO

MERCER COUNTY

	ROAD	FROM	TO	
*	Bluegrass PKWY	52.3 Anderson CO LN	56.3	Anderson CO LN
	Weight Limit - Bridge over Salt River @ milepoint 56.27			
	TY I = 20 tons, TY II = 42 tons, TY III = 43 tons, TY IV = 54 tons			
*	US 127	0.0 Boyle CO LN	4.4	US 68

MONTGOMERY COUNTY

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

MORGAN COUNTY

	ROAD	FROM	TO	
*	US 460	20.1 Malone-Jones Creek RD	28.8	Magoffin CO LN
	Weight Limit - Bridge over Licking River @ milepoint 23.74			
	TY I = 17 tons, TY II = 24 tons, TY III = 25 tons, TY IV = 40 tons			
*	KY 172	21.0 Cindas Creek RD	22.3	KY 1614
*	Malone-Jones Creek Road			
	CR 5175	0.0 KY 7	2.0	Mine

MUHLENBERG COUNTY

	ROAD	FROM	TO	
*	Western Kentucky Parkway			
		43.4 Hopkins CO LN	57.9	US 431
	Weight Limit - Bridge over Pond River Relief @ milepoint 43.60			
	TY I = 20 tons, TY II = 39 tons, TY III = 39 tons, TY IV = 60 tons			
	Weight Limit - Bridge over KY 175-IC RR - Unnamed Creek @ milepoint 48.05			
	TY I = 20 tons, TY II = 41 tons, TY III = 42 tons, TY IV = 60 tons			
	Weight Limit - Bridge over KY 181 @ milepoint 52.52			
	TY I = 20 tons, TY II = 38 tons, TY III = 39 tons, TY IV = 55 tons			
	Weight Limit - Bridge over IC RR @ milepoint 55.51			
	TY I = 20 tons, TY II = 42 tons, TY III = 43 tons, TY IV = 59 tons			
	Weight Limit - Bridge over L&N RR, Branch Little Cypress Creek @ milepoint 57.58			
	TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 60 tons			
*	US 62	1.3 Henry Oates RD	10.5	KY 176
	Weight Limit - Bridge over Branch of Thompson Creek @ milepoint 3.68			
	TY I = 20 tons, TY I = 28 tons, TY III = 31 tons, TY IV = 40 tons			
	Weight Limit - Bridge over I.C. & Gulf R.R. @ milepoint 5.40			
	TY I = 20 tons, TY II = 42 tons, TY III = 43 tons, TY IV = 57 tons			
		19.2 KY 604	26.0	Ohio CO LN
	Weight Limit - Bridge over I.C. RR @ milepoint 24.71			
	TY I = 20 tons, TY II = 28 tons, TY III = 28 tons, TY IV = 36 tons			
*	US 431	11.5 KY 176	25.5	Mine
	Weight limit - Bridge over Pond Creek @ milepoint 12.45			
	TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons			

Weight Limit - Bridge over Western KY Parkway @ milepoint 17.48
TY I = 20 tons, TY II = 44 tons, TY III = 46 tons, TY IV = 60 tons

*	KY 70	0.0 Hopkins County Line	14.7	KY 189
		(Extended weights shall be available only for TY IV vehicles.)		
		23.6 Barge Dock	23.8	Butler CO LN

Weight Limit - Bridge over Mud River @ milepoint 23.75
TY I = 20 tons, TY II = 38 tons, TY III = 39 tons, TY IV = 46 tons

*	KY 176	0.0 US 62	12.5	T V A Paradise Plant

Weight Limit - Bridge over Pond Creek @ milepoint 4.29
TY I = 20 tons, TY II = 40 tons, TY III = 40 tons, TY IV = 60 tons

*	KY 189	6.0 Mine Access	8.8	US 62 (South Junction)
		14.0 US 62	15.3	KY 70 (North Junction)
		(Extended weights shall be available only for TY IV vehicles.)		
*	KY 277	2.6 KY 602	3.8	KY 1379
*	KY 602	0.0 KY 277	0.7	US 431
*	KY 604	0.0 US 431	1.0	US 62

Weight Limit - Bridge over Western Kentucky Parkway @ milepoint 0.34
TY I = 20 tons, TY II = 28 tons, TY III = 29 tons, TY IV = 39 tons

*	KY 1379	0.0 KY 277	0.5	Prep Plant Access

Weight Limit - Bridge over Unnamed Stream @ milepoint 0.25
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons

*	Wilcox Cemetery Road			
	CR 5003	0.0 US 421	0.6	Mine
*	Green River Power Plant Road			
	CR 5045	0.0 US 431	0.7	KY Utilities Plant
*	Henry Oates Road			
	CR 5392	0.0 US 62	2.3	Mine

NELSON COUNTY

	ROAD	FROM		TO
*	Bluegrass PKWY	33.3 KY 55	39.3	Washington CO LN

Weight Limit - Bridge over Chaplin River @ milepoint 39.25
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons

*	US 31E	15.4 KY 245	27.6	Spencer CO LN

Weight Limit - Bridge over Powell Run @ milepoint 26.99
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons

*	US 62	15.9 KY 245	25.0	KY 55

Weight Limit - Bridge over East Fork of Simpson Creek @ milepoint 24.96
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons

*	KY 55	3.1 Bluegrass Parkway	3.8	US 62

Weight Limit - Bridge over East Fork of Simpson Creek @ milepoint 3.77
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons

*	KY 245	0.0 US 62	1.0	US 31E

NICHOLAS COUNTY

	ROAD	FROM		TO
*	US 68	0.0 Bourbon CO LN	12.2	Robertson CO LN

Weight Limit - Bridge over Stony Creek @ milepoint 9.72
TY I = 20 tons, TY II = 36 tons, TY III = 38 tons, TY IV = 60 tons

OHIO COUNTY

	ROAD	FROM		TO
*	Western KY PKWY	74.6 US 231	76.8	Green River Parkway

Weight Limit - Bridge over US 231 @ milepoint 74.56
TY I = 20 tons, TY II = 43 tons, TY III = 45 tons, TY IV = 60 tons
Weight Limit - Bridge over Arnold-Butler Road @ milepoint 85.72
TY I = 20 tons, TY II = 42 tons, TY III - 44 tons, TY IV = 60 tons

*	Green River PKW	35.1 Butler CO LN	59.5	Daviess CO LN

Weight Limit - Bridge over Rough River @ milepoint 49.34
TY I = 20 tons, TY II = 44 tons, TY III = 45 tons, TY IV = 54 tons

*	US 62	0.0 Muhlenberg CO LN	19.0	Horton-MT Pleasant RD

Weight Limit - Bridge over Green River @ milepoint 0.01
TY I = 20 tons, TY II = 27 tons, TY III = 32 tons, TY IV = 38 tons
Weight Limit - Bridge over Lewis Creek @ milepoint 1.45
TY I = 20 tons, TY II = 32 tons, TY III = 32 tons, TY IV = 57 tons
Weight Limit - Bridge over Branch of Three Lick Fork @ milepoint 11.91
TY I = 20 tons, TY II = 33 tons, TY III = 35 tons, TY IV = 49 tons
Weight Limit - Bridge over Three Lick Fork @ milepoint 12.03
TY I = 20 tons, TY II = 36 tons, TY III = 38 tons, TY IV = 60 tons
Weight Limit - Bridge over Muddy Creek @ milepoint 12.30
TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 59 tons
Weight Limit - Bridge over Elmlick Creek @ milepoint 14.95
TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 53 tons

*	US 231	0.0	Butler CO LN	10.0	US 62 (South)
		10.0	US 62 (North)	24.3	Daviess CO LN
	Weight Limit - Bridge over North Fork Muddy Creek @ milepoint 12.30				
	TY I = 20 tons, TY II = 34 tons, TY III = 36 tons, TY IV = 59 tons				
	Weight Limit - Bridge over Barnett Creek @ milepoint 20.30				
	TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 60 tons				
*	KY 69	6.9	Mine	7.6	KY 85 (South)
		13.7	US 231 (South)	15.4	Country Club Road
*	KY 85	7.2	KY 69 (East)	11.3	US 62
	Weight Limit - Bridge over Branch West Fork Lewis Creek @ milepoint 9.62				
	TY I = 20 tons, TY II = 33 tons, TY III = 35 tons, TY IV = 56 tons				
*	KY 1414	14.0	Sugar Grove RD	15.7	KY 54
*	KY 1903	0.0	US 62	0.9	Lewis Creek Dock
*	Sunnydale Road				
	CR 5076	8.3	Sugar Grove RD	8.4	Sugar Grove RD
*	Sugar Grove Road				
	CR 5077	0.0	KY 1414	1.5	Sunnydale RD
		1.5	Sunnydale RD	2.0	Mine
*	Horton-Mount Pleasant Road				
	CR 5125	0.0	US 62	0.1	Southwind Tipple
	Weight Limit - Bridge over Pigeon Creek				
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons				
*	Whoopee Hill Road				
	CR 5356	0.0	US 231	1.5	Rone RD
*	Rone Road				
	CR 5356A	0.0	Whoopee Hill RD	0.5	Mine
*	Maple Lake Road (Old Martin-Dodson Cemetery Road)				
	CR 5373	0.1	US 231	0.7	Mine

OWSLEY COUNTY

	ROAD	FROM		TO	
*	KY 11	0.0	Clay CO LN	10.8	KY 1938
	Weight Limit - Bridge over Sexton Creek @ milepoint 1.80				
	TY I = 20 tons, TY II = 39 tons, TY III = 40 tons, TY IV = 53 tons				
	Weight Limit - Bridge over Island Creek @ milepoint 4.02				
	TY I = 20 tons, TY II = 41 tons, TY III = 42 tons, TY IV = 56 tons				
	Weight Limit - Bridge over White Oak Creek @ milepoint 6.18				
	TY I = 20 tons, TY II = 34 tons, TY III = 35 tons, TY IV = 49 tons				
*	KY 30	0.0	Jackson CO LN	10.8	KY 847
	Weight Limit - Bridge over Little Sturgeon Creek @ milepoint 3.42				
	TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons				
	Weight Limit - Bridge over Little Sturgeon Creek @ milepoint 4.88				
	TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons				
	Weight Limit - Bridge over Little Sturgeon Creek @ milepoint 5.15				
	TY I = 20 tons, TY II = 29 tons, TY III = 30 tons, TY IV = 49 tons				
*	KY 847	4.3	Bowman Branch RD	7.2	KY 30
	Weight Limit - Bridge over Buck Creek @ milepoint 6.34				
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons				
*	Hurricane Branch Road				
	CR 5301	0.0	Bowman Branch Road	1.1	Denham & Lewis Mine
*	Bowman Branch Road				
	CR 5303	0.0	KY 847	0.3	Hurricane Branch RD

PENDLETON COUNTY

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

PERRY COUNTY

	ROAD	FROM		TO	
*	Daniel Boone Parkway				
		51.0	Leslie CO LN	59.1	KY 15
*	KY 7	0.0	KY 15	13.6	Letcher CO LN
	Weight Limit - Bridge over Maces @ milepoint 2.44				
	TY I = 20 tons, TY II = 39 tons, TY III = 40 tons, TY IV = 53 tons				

*	KY 15	0.0 Knott CO LN	25.2 Breathitt CO LN
	Weight Limit - Bridge over Main Street, Carr Fork, & L&N RR @ milepoint 0.20		
	TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 55 tons		
	Weight Limit - Bridge over Carr Fork & L&N RR @ milepoint 3.37		
	TY I = 20 tons, TY II = 45 tons, TY III = 48 tons, TY IV = 55 tons		
	Weight Limit - Bridge over L&N RR @ milepoint 13.17		
	TY I = 20 tons, TY II = 45 tons, TY III = 50 tons, TY IV = 55 tons		
	Weight Limit - Bridge over KY 80, N Fork KY River @ milepoint 13.57		
	TY I = 20 tons, TY II = 44 tons, TY III = 45 tons, TY IV = 49 tons		
	Weight Limit - Bridge over First Creek & L&N RR @ milepoint 15.95		
	TY I = 20 tons, TY II = 41 tons, TY III = 42 tons, TY IV = 56 tons		
*	KY 28	3.5 Buckhorn-Breathitt RD	6.0 Breathitt CO LN
		6.0 Breathitt CO LN	18.1 KY 15
	Weight Limit - Bridge over Grapevine Creek @ milepoint 15.02		
	TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons		
*	KY 80	0.0 Leslie CO LN	7.9 KY 15 Underpass
	Weight Limit - Bridge over Right Fork of Big Creek @ milepoint 1.57		
	TY I = 20 tons, TY II = 25 tons, TY III = 28 tons, TY IV = 46 tons		
	Weight Limit - Bridge over Big Creek @ mile point 5.27		
	TY I = 20 tons, TY II = 27 tons, TY III = 30 tons, TY IV = 44 tons		
	Weight Limit - Bridge over L & N R.R. & Kentucky River @ milepoint 7.09		
	TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 43 tons		
		7.9 D Boone Parkway & KY 15	15.9 Knott CO LN
*	KY 451	5.0 Mine	7.7 Daniel Boone Parkway
		7.7 Daniel Boone PKWY	7.8 KY 80
		7.8 KY 80	10.9 KY 2021
*	KY 463	1.4 Jackson Fork RD	6.5 KY 699
	Weight Limit - Bridge over Leatherwood Creek @ milepoint 6.34		
	TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 60 tons		
*	KY 476	2.0 KY 550	2.4 Black Gold Tipple
	Weight Limit - Bridge over Lotts Creek @ milepoint 2.07		
	TY I = 20 tons, TY II = 19 tons, TY III = 20 tons, TY IV = 30 tons		
	Weight Limit - Bridge over Lotts Creek @ milepoint 2.22		
	TY I = 20 tons, TY II = 21 tons, TY III = 22 tons, TY IV = 29 tons		
		2.9 KY 1088	18.1 Mine
	Weight Limit - Bridge over Jake's Creek @ milepoint 3.65		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
	Weight Limit - Bridge over Troublesome Creek @ milepoint 8.72		
	TY I = 20 tons, TY II = 24 tons, TY III = 27 tons, TY IV = 38 tons		
	Weight Limit - Bridge over Ball Fork @ milepoint 12.36		
	TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 54 tons		
		22.2 Buckhorn Creek Road	22.3 Breathitt CO LN
*	KY 550	0.0 KY 15 & KY 80	2.5 KY 476
	Weight Limit - Bridge over Big Leather Creek @ milepoint 2.4		
	TY I = 20 tons, TY II = 35, TY III = 36 tons, TY IV = 48 tons		
*	KY 699	0.0 Leslie CO LN	4.8 KY 463
	Weight Limit - Bridge over Leatherwood Creek @ milepoint 4.75		
	TY I = 20 tons, TY II = 33 tons, TY III = 35 tons, TY IV = 57 tons		
		6.5 Beech Fork RD	12.5 KY 7
	Weight Limit - Bridge over Leatherwood Creek @ milepoint 8.01		
	TY I = 20 tons, TY II = 38 tons, TY III = 38 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Big Leather Creek @ milepoint 10.77		
	TY I = 20 tons, TY II = 41 tons, TY III = 42 tons, TY IV = 60 tons		
*	KY 1087	0.0 KY 476	0.7 Lick Branch RD
*	KY 1088	0.0 KY 476	1.1 Mine
*	KY 1095	0.4 Emmons Tipple	2.9 KY 15
	Weight Limit - Bridge over Carr Fork @ milepoint 2.55		
	TY I = 18 tons, TY II = 19 tons, TY III = 22 tons, TY IV = 31 tons		
*	KY 1096	0.0 KY 80	4.0 Whitaker Tipple
	Weight Limit - Bridge over Big Creek @ milepoint 0.02		
	TY I = 20 tons, TY II = 40 tons, TY III = 38 tons, TY IV = 46 tons		
	Weight Limit - Bridge over Big Creek @ milepoint 3.55		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
*	KY 1146	2.2 Jakes Fork Tipple	2.7 KY 476
	Weight Limit - Bridge over Trace Fork @ milepoint 2.69		
	TY I = 20 tons, TY II = 28 tons, TY III = 31 tons, TY IV = 31 tons		
		2.7 KY 476	4.0 KY 80
		4.0 KY 80	4.6 Buckhorn Prep Plant
*	KY 2021	1.1 Beech Oak Branch	3.4 KY 451
*	KY 3196	0.0 Beech Fork RD	0.1 KY 699
	Weight Limit - Bridge over Leatherwood Creek @ milepoint 0.01		
	TY I = 20 tons, TY II = 36 tons, TY III = 38 tons, TY IV = 60 tons		
*	KY 3348	0.1 Little Leatherwood Creek RD	3.9 KY 699
	Weight Limit - Bridge over Little Leatherwood Creek @ milepoint 1.44		
	TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons		

Weight Limit - Bridge over Little Leatherwood Creek @ milepoint 2.32
TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons

*	Wayne Davidson Road			
	CR 5005	0.3 Cumberland Elk Tipple	0.5	KY 15
*	Dwarf-Engle Fork Road			
	CR 5032	0.0 KY 476	0.1	Highland Coal Mine
*	Coates Branch Road			
	CR 5044	0.0 Ky 476	0.5	Ball Branch Mine
*	Lick Branch Road			
	CR 5045	0.0 KY 1087	0.6	Star Fire Mine
*	Buckhorn Creek Road			
	CR 5070	0.0 KY 476	0.1	Breathitt CO LN

Weight Limit - Bridge over Troublesome Creek
TY I = 16 tons, TY II = 16 tons, TY III = 16 tons, TY IV = 16 tons

*	Old KY 15 Loop #1 Road			
	CR 5102	0.0 KY 15	0.2	Kentucky Prince Tipple
*	Oakwood Avenue-Stacy Branch Road			
	CR 5117	0.0 Main ST (Vicco)	1.3	Chester Tipple
*	Main Street (Vicco)			
	CR 5118B	0.0 KY 1095	0.2	Oakwood Ave-Stacey Branch RD
*	Kelly Fork Road			
	CR 5119	0.0 KY 1095	0.4	Emmons Tipple
*	Straight Fork Road			
	CR 5140	0.0 Little Leatherwood Creek RD	0.5	Mine
*	Beech Fork Road			
	CR 5146	0.0 KY 3196	3.0	Lee Mine
*	Jackson Fork Road			
	CR 5152	0.0 KY 463	0.4	Blue Diamond Mine
*	Beech Oak Branch Road			
	CR 5213	0.0 KY 2021	0.9	Mine
*	Sam Campbell Branch Road (Old Pigeon Roose-Hull School RD)			
	CR 5319	0.0 KY 15	4.8	Dun Raven Tipple
*	Clear Fork Road			
	CR 5320	0.0 KY 28	2.3	Sam Campbell BR RD
*	Barwick Road			
	CR 5330	0.0 KY 28	0.8	Breathitt CO LN
*	Right Fork Spencer Creek Road			
	CR 5332	0.0 Spencer Creek-Napfor BR RD	1.0	Vires Coal Mine
*	Spencer Creek-Napfor Branch Road			
	CR 5333	0.0 KY 28	1.9	Pine Branch Mine
*	Buckhorn-Breathitt County Line Road			
	CR 5349	0.0 KY 28	0.4	Mine

PIKE COUNTY

	ROAD	FROM	TO	
*	US 23	0.0 Letcher CO LN	39.6	Floyd CO LN

(Via Old US 23 at Pikeville, Does not include new cut through)
Weight Limit - Bridge over Shelby Creek @ milepoint 17.23
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
Weight Limit - Bridge over Little Creek @ milepoint 18.12
TY I = 20 tons, TY II = 34 tons, TY III = 33 tons, TY IV = 60 tons
Weight Limit - Bridge over Shelby Creek @ milepoint 19.75
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
Weight Limit - Bridge over C&O RR & Levisa Fork @ milepoint 22.00
TY I = 20 tons, TY II = 30 tons, TY III = 31 tons, TY IV = 47 tons

*	New US 23 (Pikeville Cut Through)			
		0.0 US 23 (South)	2.7	US 23 NW of Pikeville
*	US 119	0.0 US 23 (North of Pikeville)	29.7	W. Va. State LN

Weight Limit - Bridge over Raccoon Creek @ milepoint 6.61
TY I = 18 tons, TY II = 20 tons, TY III = 23 tons, TY IV = 40 tons
Weight Limit - Bridge over John's Creek @ milepoint 7.94
TY I = 20 tons, TY II = 21 tons, TY III = 24 tons, TY IV = 37 tons
Weight Limit - Bridge over Bent Branch @ milepoint 9.99
TY I = 20 tons, TY II = 35 tons, TY III = 37 tons, TY IV = 60 tons
Weight Limit - Bridge over Bent Branch @ milepoint 10.23
TY I = 13 tons, TY II = 13 tons, TY III = 13 tons, TY IV = 13 tons
Weight Limit - Bridge over Bent Branch @ milepoint 10.88
TY I = 12 tons, TY II = 12 tons, TY III = 12 tons, TY IV = 12 tons
Weight Limit - Bridge over Bent Branch @ milepoint 11.25
TY I = 20 tons, TY II = 35 tons, TY III = 36 tons, TY IV = 60 tons
Weight Limit - Bridge over Bent Branch @ milepoint 11.40
TY I = 20 tons, TY II = 20 tons, TY III = 23 tons, TY IV = 40 tons
Weight Limit - Bridge over Bent Branch @ milepoint 11.63
TY I = 11 tons, TY II = 11 tons, TY III = 11 tons, TY IV = 11 tons

Weight Limit - Bridge over Fork of Big Creek @ milepoint 16.41
TY I = 20 tons, TY II = 35 tons, TY III = 36 tons, TY IV = 60 tons
Weight Limit - Bridge over Big Creek @ milepoint 17.06
TY I = 20 tons, TY II = 23 tons, TY III = 24 tons, TY IV = 27 tons
Weight Limit - Bridge over Reed Fork @ milepoint 18.48
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
Weight Limit - Bridge over Big Creek @ milepoint 20.13
TY I = 20 tons, TY II = 24 tons, TY III = 28 tons, TY IV = 47 tons
Weight Limit - Bridge over Tug River @ West Virginia State Line @ milepoint 29.7
TY I = 20 tons, TY II = 45 tons, TY III = 45 tons, TY IV = 52 tons

*	Old US 119	0.0 US 23 @ Ferguson Creek	2.8	US 119 West of Zebulon
*	US 460	0.0 US 23	24.0	Virginia State LN

Weight Limit - Bridge over Levisa Fork @ milepoint 4.26
TY I = 20 tons, TY II = 38 tons, TY III = 39 tons, TY IV = 46 tons

*	KY 80	0.0 US 460	6.9	Virginia State LN

Weight Limit - Bridge over Russell Fork of Big Sandy @ milepoint 3.07
TY I = 20 tons, TY II = 41 tons, TY III = 42 tons, TY IV = 57 tons
Weight Limit - Bridge over Russell Fork & Clinchfield R.R. @ milepoint 3.60
TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 57 tons

*	KY 122	3.3 Arnold Fork Road Mine	10.4	US 23

Weight Limit - Bridge over Robinson Creek @ milepoint 6.75
TY I = 20 tons, TY II = 36 tons, TY III = 37 tons, TY IV = 53 tons
Weight Limit - Bridge over Bear Fork north of Jones Chapel @ milepoint 8.28
TY I = 20 tons, TY II = 36 tons, TY III = 39 tons, TY IV = 60 tons

*	KY 194	0.0 Floyd CO LN	16.8	US 119 (South)
		16.8 US 119 (North)	27.8	Mine

Weight Limit - Bridge over John's Creek @ milepoint 25.62
TY I = 20 tons, TY II = 28 tons, TY III = 30 tons, TY IV = 48 tons

		29.6 KY 3418	40.0	KY 1499
		52.4 Prater Branch RD	55.7	KY 632 @ Phelps
		67.3 Mine	67.7	KY 2062
		69.6 KY 2059	73.2	Virginia State LN
*	KY 195	0.0 KY 197	11.6	US 460

Weight Limit - Bridge over Brushy Branch @ milepoint 3.27
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
Weight Limit - Bridge over Wolf Pit Branch @ milepoint 9.93
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
Weight Limit - Bridge over Russell Fork @ milepoint 11.44
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons

*	KY 197	9.8 KY 195	16.6	KY 80

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

*	KY 199	8.2 KY 1056	11.6	US 119

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

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

Weight Limit - Bridge over Blackberry Fork North of Hardy
TY I = 3 tons, TY II = 3 tons, TY III = 3 tons, TY IV = 3 tons

*	KY 468	0.0 US 119	13.6	KY 292
*	KY 610	0.0 US 23	2.6	Myra Tipple

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

		8.1 KY 1460	8.9	KY 122
*	KY 611	0.0 KY 195	3.5	Henry Clay Mine
		4.3 Little Fork-Left Fork RD	6.0	US 23
*	KY 612	0.0 KY 468	3.6	Mine
		6.6 Mine	8.4	KY 292
*	KY 632	0.0 KY 194 @ Kimper	15.0	KY 194 @ Phelps

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

*	KY 881	0.0 US 119	3.0	Brushy Fork Road
*	KY 1056	0.0 KY 199	11.6	W.Vir. ST LN

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

Weight Limit - Bridge over Blackberry Creek @ Nampa
TY I = 20 tons, TY II = 43 tons, TY III = 45 tons, TY IV = 60 tons
Weight Limit - Bridge over Tug Fork Big Sandy River @ milepoint 11.5
TY I = 20 tons, TY II = 44 tons, TY III = 45 tons, TY IV = 53 tons

*	KY 1373	4.8	Card Creek-Card Knob Road	6.7 US 460
*	KY 1384	0.0	US 23 @ Boldman	6.1 KY 3417
*	KY 1426	0.0	Floyd CO LN	4.9 US 23
*	KY 1441	0.0	KY 1789	3.9 Mine
		4.4	Standard Elkhorn Mine	10.1 US 119

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

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

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

*	KY 1758	6.8	Daugherty Tipple	7.8 KY 632
*	KY 1789	0.0	US 460	1.1 KY 1441
*	KY 2059	0.0	KY 194	0.3 Private Haul Road
		1.6	Private Haul Road	2.3 Lower Elk Creek RD
*	KY 2061	0.0	US 23	7.1 KY 194

Weight Limit - Bridge over Cowpen Creek @ milepoint 0.81
TY I = 18 tons, TY II = 19 tons, TY III = 22 tons, TY IV = 36 tons
Weight Limit - Bridge over Caney Fork of Johns Creek @ milepoint 6.72
TY I = 10 tons, TY II = 10 tons, TY III = 10 tons, TY IV = 10 tons
Weight Limit - Bridge over Johns Creek @ milepoint 7.11
TY I = 20 tons, TY II = 36 tons, TY III = 38 tons, TY IV = 60 tons

*	KY 2062	0.0	KY 194 @ Jamboree	3.1 KY 194 @ Stopover
*	KY 2552	0.0	US 23	0.3 Shelbiana RD

Weight Limit - Bridge over Shelby Creek @ milepoint 0.01
TY I = 20 tons, TY II = 31 tons, TY III = 32 tons, TY IV = 39 tons

*	KY 3154	0.0	Meathouse Branch RD	2.7 US 119
*	KY 3226	0.0	Rockhouse Creek-Greasy RD	3.3 US 460
*	KY 3227	0.0	US 23	1.0 Coal Run Tipple
*	KY 3414	2.4	Mine	3.4 KY 1469
*	KY 3415	0.0	Robinson Creek RD	2.8 KY 122

Weight Limit- Bridge over Robinson Creek @ milepoint 0.4
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
Weight Limit - Bridge over Robinson Creek @ milepoint 0.6
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons

*	KY 3416	0.0	Island Creek RD	1.7 KY 1426
*	KY 3417	0.0	KY 1426	1.1 KY 1384
*	KY 3418	7.4	Hurricane Creek RD	10.1 KY 194
*	KY 3419	4.9	KY 632	6.0 Kentucky Carbon Scales
		10.5	Mine	12.0 KY 1056

Weight Limit - Bridge over Left Fork of Blackberry Creek @ milepoint 11.47
TY I = 20 tons, TY II = 29 tons, TY III = 31 tons, TY IV = 46 tons
Weight Limit - Bridge over Blackberry Creek @ milepoint 12.01
TY I = 20 tons, TY II = 37 tons, TY III = 48 tons, TY IV = 60 tons

*	Frozen Creek Road			
	CR 5004	0.0	KY 1441	2.4 Mine
*	Winn Branch Road			
	CR 5011	0.0	US 119	1.3 Chloe Creek Dev Mine

Weight Limit - Bridge over Little Ratliff Creek
TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons

*	Varney Branch Road			
	CR 5021	0.0	KY 194 South of Deskin	0.4 Utility Tipple
*	Meathouse Fork Road			
	CR 5022	0.0	KY 194 @ Deskin	0.8 Callahan Branch-Dix Fork RD
*	Callahan Branch-Dix Fork Road			
	CR 5023	0.0	Meathouse Fork RD	1.0 Mine
*	Meathouse Branch Road			
	CR 5025	0.0	KY 3154	0.6 Mine
*	Peg Branch Road			
	CR 5043	0.0	US 119	0.6 Eastern Coal Mine

* Goody-Aflex-Burnwell Road
CR 5050 0.0 KY 292 0.8 Mine
* Bent Branch Road
CR 5074 0.0 KY 468 1.1 Gex Tipple
Weight Limit - Bridge over Big Creek
TY I = 18 tons, TY II = 18 tons, TY III = 20 tons, TY IV = 32 tons
* Swinge Camp Branch Road
CR 5075 0.0 KY 468 0.4 H Mar/Island Mines
Weight Limit - Bridge over Big Creek
TY I = 3 ton, TY II = 3 ton, TY III = 3 ton, TY IV = 3 ton
* Halfway Branch Road
CR 5077 0.0 KY 468 0.5 Island Creek Mine
* Rockhouse Fork Road
CR 5078 0.0 KY 468 0.4 Island Creek Mine
Weight Limit - Bridge over Big Creek
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
* Brushy Fork Road
CR 5095 0.0 KY 881 0.5 Addington Mine
Weight Limit - Bridge over Left Fork of Brushy Fork
TY I = 20 tons, TY II = 26 tons, TY III = 26 tons, TY IV = 26 tons
16.1 Big Branch/Meathouse Creek RD 16.8 Floyd CO LN
* Big Branch/Meathouse Creek Road
CR 5111 2.4 Mine 4.2 Brushy Fork RD
* Miller Creek Road
CR 5123 3.6 Miller Creek Tipple 5.1 KY 194
Weight Limit - Bridge over Johns Creek
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
* Lick Branch Road
CR 5141 0.0 KY 468 0.8 Jex Big Hill Mine
* Hurricane Creek Road
CR 5162 2.5 Wellmore Mine 3.7 KY 3418
* Dicks Fork Road
CR 5163 0.0 KY 194 @ Phyliss 0.6 Big Fist #4 Mine
* Lane Branch Road
CR 5168 0.0 KY 632 1.2 McCoy Elkhorn Mine
* Hatfield Branch Road
CR 5210 0.0 KY 319 0.8 Blackberry CR Mine
* Lower Elk Creek Road
CR 5241 0.0 KY 2059 0.6 Race Fork Mine
* Prater Branch Road
CR 5253 0.0 KY 194 0.8 Majestic Mine
* Old Mouth Card-Feds Creek Road
CR 5282 0.0 US 460 0.3 Flannary Branch RD
* Flannary Branch Road
CR 5283 0.0 Old Mouth Card-Feds CR RD 0.2 Mouth Card Mines
* Card Creek-Card Knob Road
CR 5285 0.0 KY 1373 0.7 Clark Elkhorn Mine
1.6 Wellmore Mine 4.6 US 460
* Island Creek Road
CR 5287 0.0 Bane Tipple 0.6 Island Creek-Grapevine RD
* Island Creek-Grapevine Road
CR 5288 0.0 Island Creek Road 1.8 Millers CR RD
* Left Fork/Island Creek Road
CR 5289 0.0 Island Creek-Grapevine RD 0.2 Flannary Coal Mine
* Millers Creek Road
CR 5290 0.0 Island Creek-Grapevine RD 2.4 Flannary Coal Mine
* Hopkins Creek Road
CR 5322 0.0 US 460 1.0 Hopkins Creek Tipple
Weight Limit - Bridge over Levisa Fork
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
* Daniel Branch Road
CR 5326 0.0 US 460 0.4 Mine
* Biggs Creek Road
CR 5327 0.0 US 460 1.9 Mine
* Little Fork of Harless Creek Road
CR 5329 0.0 Harless Creek RD 1.0 Mine
* Harless Creek Road
CR 5330 0.0 US 460 1.5 Wellmore Mine
* Jimmie Creek Road
CR 5341 0.0 US 460 0.6 Wellmore Mine
* Old US 460 Loop #2 Road
CR 5353 0.3 Potter Coal Mine 0.8 US 460
* Shortridge Fork Road
CR 5355 0.4 Wellmore Mine 0.9 Wellmore Private RD

*	Abes Fork Road		
	CR 5356	0.0 Virginia State LN	0.4 Potter Prep Plant
*	Ohio Street (Elkhorn City)		
	CR 5361T	0.0 KY 80	0.5 Potter Processing
*	Old Bridge Street (Elkhorn City)		
	CR 5361Z	0.0 KY 80	0.1 Private Access Road
*	John Moore Branch Road		
	CR 5363	0.0 KY 197	0.9 Federal Tipple
*	Jackson Branch Road		
	CR 5371	0.0 KY 197	1.9 Mine
*	Brushy Branch Road		
	CR 5379	0.0 KY 195	0.8 Ratliff Elkhorn Mine
*	Marrowbone Creek Road		
	CR 5381	0.0 KY 195	2.1 Lad/Prospect Mine
	Weight Limit - Bridge over Marrowbone Creek		
	TY I = 18 tons, TY II = 18 tons, TY III = 18 tons, TY IV = 18 tons		
*	Bowling Fork Road		
	CR 5384	0.0 KY 195	1.7 Nats Fork RD
*	Marshall Branch Road		
	CR 5399	0.0 US 23	0.3 Letcher CO LN
		0.3 Letcher CO LN	0.8 Mine
*	Little Fork/Left Fork Road		
	CR 5416	0.0 KY 611	0.2 Henry Clay Mine
*	Rockhouse Creek/Greasy Road		
	CR 5422	0.0 KY 195	2.6 Mine
	Weight Limit - Bridge over Marrowbone Creek		
		5.3 Joe Brown RD	6.3 KY 3226
*	Joe Brown Road		
	CR 5429	0.0 Rockhouse Creek Greasy RD	0.3 Mine
*	Prichard Branch Road		
	CR 5430	0.0 Wolfpit Branch-Gardiner Fork RD	0.5 Mine
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
*	Wolfpit Branch-Gardner Fork Road		
	CR 5433	5.1 Prichard Branch RD	6.3 KY 3226
*	Wolfpen Branch Road		
	CR 5444	0.0 KY 80	0.8 Wellmore Mine
*	Shelbiana Road		
	CR 5473	0.0 KY 2553	0.5 Coalmac Shelby Tipple
*	Marion Branch Road		
	CR 5478	0.0 KY 1426	1.6 Chapperal Tipple
*	Tollage Creek Road		
	CR 5496	0.0 US 23	1.0 Coal Run Mine
*	Harmond Branch Road		
	CR 5505	0.0 US 23	0.9 Amber #9 Mine
*	Dog Fork/Hurricane Creek Road		
	CR 5522	0.0 KY 1384	1.3 Peter Fork Joline Mine
*	Hoopwood Branch Road		
	CR 5529	0.0 KY 1426	0.7 Stillhouse Mine
*	Raccoon Branch Road		
	CR 5531	0.0 KY 1426	1.3 Jet/Cimaron Mine
*	Island Creek Road		
	CR 5535	0.0 KY 1426	3.3 Mine
*	Ray Branch Road		
	CR 5537	0.0 Island Creek RD	0.7 Mine
*	Bear Fork - Tinker Fork Road		
	CR 5547	0.0 Bear Fork Branch RD	1.1 Floyd CO LN
*	L Robinson - Floyd County Road		
	CR 5550	0.0 Robinson Creek RD	0.6 Floyd CO LN
*	Little Fork/Robinson Road		
	CR 5553	0.0 KY 3415	1.6 Apache Mining Mine
*	Robinson Creek Road		
	CR 5554	0.0 KY 3415	1.3 Mine
*	Arnold Fork Road		
	CR 5555	0.0 KY 122	0.3 Apache Mining Mine
*	Lizzie Fork Road		
	CR 5590	0.0 US 23	1.0 Mine
	Weight Limit - Bridge over Caney Creek		
	TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons		
*	Rob Fork Road		
	CR 5593	0.0 US 23	0.5 Damron Fork Tipple
*	Gillespie Branch Road		
	CR 5606	0.0 KY 3226	0.9 Mine
*	Lucy Branch Road		
	CR 5607	0.0 KY 3226	0.3 Mine

	ROAD	FROM	TO	
*	Sugar Camp Branch Road			
	CR 5611	0.0 KY 122	1.5	
*	Bear Fork Branch Road			
	CR 5616	0.0 KY 122	1.5	Bear FK-Tinker FK RD

POWELL COUNTY

	ROAD	FROM	TO	
*	Mountain Parkway (KY 402)			
		11.9 Clark CO LN	36.0	Wolfe CO LN
	Weight Limit - Bridge over Lulbegrud Creek @ milepoint 11.90			
	TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 45 tons			
	Weight Limit - Bridge over Red River @ milepoint 18.22			
	TY I = 20 tons, TY II = 37 tons, TY III = 37 tons, TY IV = 45 tons			
	Weight Limit - Bridge over Red River @ milepoint 24.83			
	TY I = 20 tons, TY II = 39 tons, TY III = 40 tons, TY IV = 50 tons			
	Weight Limit - Bridge over Cane Creek @ milepoint 26.12			
	TY I = 20 tons, TY II = 44 tons, TY III = 46 tons, TY IV = 60 tons			
	Weight Limit - Bridge over KY 613 @ milepoint 27.38			
	TY I = 20 tons, TY II = 44 tons, TY III = 46 tons, TY IV = 60 tons			
	Weight Limit - Bridge over North Fork Red River @ milepoint 27.94			
	TY I = 20 tons, TY II = 44 tons, TY III = 45 tons, TY IV = 55 tons			
	Weight Limit - Bridge over Middle Fork Red River @ milepoint 31.96			
	TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 46 tons			
	Weight Limit - Bridge over KY 11 & 15 @ milepoint 32.08			
	TY I = 20 tons, TY II = 42 tons, TY III = 43 tons, TY IV = 54 tons			
*	KY 11	21.0 KY 15 @ Clay City	25.0	Montgomery CO LN
*	KY 15	3.5 KY 11	4.1	Mountain PKW (KY 402) @ KY 82
	Weight Limit - Bridge over Mountain Parkway @ milepoint 4.08			
	TY I = 20 tons, TY II = 45 tons, TY III = 47 tons, TY IV = 60 tons			
		4.1 Mountain Parkway (KY 402) @ KY 82	8.9	Clark CO LN

PULASKI COUNTY

	ROAD	FROM	TO	
*	US 27	0.0 McCreary CO LN	16.9	KY 80 Bypass
	Weight Limit - Bridge over Cumberland River @ milepoint 9.19			
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons			
	Weight Limit - Bridge over Pitman Creek @ milepoint 10.06			
	TY I = 20 tons, TY II = 39 tons, TY III = 38 tons, TY IV = 59 tons			
*	KY 80	21.6 KY 80 Bypass	40.4	Laurel CO LN
	Weight Limit - Bridge over Buck Creek @ milepoint 31.55			
	TY I = 20 tons, TY II = 45 tons, TY III = 47 tons, TY IV = 55 tons			
*	KY 80B	0.0 US 27	2.3	KY 80
*	KY 90	0.0 Wayne CO LN	4.2	US 27
	Weight Limit - Bridge over Cumberland River @ milepoint 3.07			
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons			
*	KY 192	0.0 KY 80 Bypass	15.0	Old Whitley RD
	Weight Limit - Bridge over Pitman Creek @ milepoint 4.13			
	TY I = 20 tons, TY II = 40 tons, TY III = 39 tons, TY IV = 58 tons			
	Weight Limit - Bridge over Buck Creek @ milepoint 10.57			
	TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 48 tons			
*	KY 790	0.0 Wayne CO LN	5.7	KY 90
*	KY 1247	0.0 US 27	5.5	KY 1580
	Weight Limit - Bridge over Southern RR @ milepoint 0.08			
	TY I = 20 tons, TY II = 40 tons, TY III = 41 tons, TY IV = 52 tons			
	Weight Limit - Bridge over Pitman Creek @ milepoint 3.40			
	TY I = 20 tons, TY II = 31 tons, TY III = 32 tons, TY IV = 52 tons			
*	KY 1580	0.0 Ferguson Tipple	0.5	KY 1247
*	KY 1642	4.7 US 27	6.3	KY 1247
*	KY 1675	5.7 Acorn-Lick Creek RD	10.5	KY 80
	Weight Limit - Bridge over Branch of Short Creek @ milepoint 9.48			
	TY I = 20 tons, TY II = 39 tons, TY III = 40 tons, TY IV = 53 tons			
*	Acorn-Lick Creek Road			
	CR 5016	0.0 KY 1675	1.7	Ano RD
*	Bolthouse Ridge Road			
	CR 5017	0.0 Ano RD	0.9	Ikerd Bandy Mine
*	Ano Road			
	CR 5018	0.0 Acorn-Lick Creek RD	1.4	Bolthouse Ridge RD
*	Old Whitley Road			
	CR 5216	0.0 KY 192	3.8	Cumberland River RD
*	Cumberland River Road			
	CR 5225	0.0 Old Whitley RD	0.8	Mine
*	Bauer Road			
	CR 5232	0.0 McCreary CO LN	0.8	Mine

	ROAD	FROM	TO
*	Cooper Power Plant Road		
	CR 5349	0.0 KY 1247	0.6 E KY Power Plant

ROBERTSON COUNTY

	ROAD	FROM	TO
*	US 68	0.0 Nicholas CO LN	1.4 Fleming CO LN

ROCKCASTLE COUNTY

	ROAD	FROM	TO
*	US 25	11.8 I-75	13.9 US 150
*	US 150	0.0 Lincoln CO LN	10.5 US 25

SHELBY COUNTY

	ROAD	FROM	TO
*	US 60	0.0 Jefferson CO LN	23.0 Franklin CO LN
	Weight Limit - Bridge over L & N R.R. @ milepoint 2.64		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
	Weight Limit - Bridge over Little Bullskin Creek @ milepoint 5.02		
	TY I = 20 tons, TY II = 21 tons, TY III = 25 tons, TY IV = 43 tons		
	Weight Limit - Bridge over Clear Creek @ milepoint 11.17		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
	Weight Limit - Bridge over Guist Creek @ milepoint 13.93		
	TY I = 20 tons, TY II = 27 tons, TY III = 28 tons, TY IV = 44 tons		

SIMPSON COUNTY

	ROAD	FROM	TO
*	US 31W	0.0 Warren County Line	3.2 KAEC Gasahol Plant
		(Extended weights shall be available only to TY IV vehicles with a gross weight of 90,000 pounds or less.)	
		3.2 KAEC Gasahol Plant	6.5 KY 100 in Franklin
		6.5 KY 100 in Franklin	14.0 Tennessee State LN
		(Extended weights shall be available only to TY IV vehicles with a gross weight of 90,000 pounds or less.)	

SPENCER COUNTY

	ROAD	FROM	TO
*	US 31E	0.0 Nelson CO LN	2.4 Bullitt CO LN

TODD COUNTY

	ROAD	FROM	TO
*	US 79	0.0 Tennessee State LN	10.6 Logan CO LN
	Weight Limit - Bridge over L & N R.R. @ milepoint 1.94		
	TY I = 20 tons, TY II = 34 tons, TY III = 35 tons, TY IV = 51 tons		
	Weight Limit - Bridge over Elk Fork Creek @ milepoint 7.61		
	TY I = 20 tons, TY II = 32 tons, TY III = 34 tons, TY IV = 47 tons		

UNION COUNTY

	ROAD	FROM	TO
*	US 60	1.4 KY 109	9.2 Mine
	Weight Limit - Bridge over Branch of Cypress Creek @ milepoint 3.66		
	TY I = 20 tons, TY II = 38 tons, TY III = 39 tons, TY IV = 55 tons		
*	KY 109	0.0 Webster CO LN	1.5 US 60 (West)
		1.5 US 60 (East)	4.9 KY 492
*	KY 492	1.9 Davis Mine RD	2.5 KY 109
*	KY 1508	0.0 KY 109	2.7 Pyro Dock
		5.3 Canipe Dock	6.0 Private Haul Road
	Weight Limit - Bridge over Unnamed Stream @ milepoint 5.61		
	TY I = 20 tons, TY II = 34 tons, TY III = 36 tons, TY IV = 59 tons		
*	Davis Mine Road		
	CR 5227	0.0 KY 109	0.3 Private Haul Road

WARREN COUNTY

	ROAD	FROM	TO
*	Green River Parkway		
		0.0 I-65	18.2 Butler CO LN
	Weight Limit - Bridge over I-65 @ milepoint 0.01		
	TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 52 tons		
	Weight Limit - Bridge over US 31-W @ milepoint 3.57		
	TY I = 20 tons, TY II = 44 tons, TY III = 45 tons, TY IV = 59 tons		
*	US 31W	0.0 Green River Parkway	9.0 Simpson County LN
		(Extended weights shall be available only to TY IV vehicles with a gross weight of 90,000 pounds or less.)	
*	US 68	0.0 Logan CO LN	8.2 Green River Parkway

WASHINGTON COUNTY

	ROAD		FROM		TO
*	Bluegrass Parkway				
		39.3	Nelson CO LN	44.8	Anderson CO LN
	Weight Limit - Bridge over Chaplin River @ milepoint 42.08				
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons				

WAYNE COUNTY

	ROAD		FROM		TO
*	KY 90	0.0	Clinton CO LN	25.2	Pulaski CO LN
	Weight Limit - Bridge over Beaver Creek @ milepoint 8.65				
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons				
	Weight Limit - Bridge over Meadow Creek @ milepoint 19.51				
	TY I = 20 tons, TY II = 43 tons, TY III = 44 tons, TY IV = 56 tons				
*	KY 776	7.5	KY 790	9.8	Brammer Hill Ridge RD
*	KY 790	1.3	KY 776	10.5	Pulaski CO LN
	Weight Limit - Bridge over Sinking Creek @ milepoint 2.02				
	TY I = 20 tons, TY II = 30 tons, TY III = 31 tons, TY IV = 41 tons				
*	Brammer Hill Ridge Road				
	CR 5023	0.0	KY 776	4.1	Jonesville Cemetery RD
*	Denny Creek Road				
	CR 5024	0.0	KY 776	1.7	Shamrock Mine
*	Brammer Hill-Delta Road				
	CR 5030	0.0	KY 790	2.2	Brammer Hill Ridge RD
*	Jones Cemetery #2 Road				
	CR 5031	0.0	Brammer Hill Ridge RD	2.4	Mine
*	Sizemore Road				
	CR 5155	0.0	Denny Creek RD	1.1	Mine

WEBSTER COUNTY

	ROAD		FROM		TO
*	Pennyrile PKWY	55.0	Hopkins CO LN	62.6	KY 56
*	US 41	0.0	Hopkins CO LN	12.1	Henderson CO LN
*	US 41A	0.0	Hopkins CO LN	19.5	KY 56
*	KY 56	5.3	US 41A	12.5	US 41 (South)
	Weight Limit - Bridge over Branch @ milepoint 12.42				
	TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons				
		12.5	US 41 (North)	14.4	Old Eastwood Ferry RD
*	KY 109	2.9	KY 670	14.7	Union CO LN
	Weight Limit - Bridge over Crab Orchard Creek @ milepoint 7.33				
	TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 51 tons				
	Weight Limit - Bridge over Caney Fork @ milepoint 10.72				
	TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 51 tons				
*	KY 132	23.6	Mine	25.9	KY 494
*	KY 270	8.4	Mine	13.2	US 41A
*	KY 494	0.0	KY 132	2.2	US 41
*	KY 670	0.0	KY 109	2.7	US 41A
*	KY 814	0.0	Hopkins CO LN	0.6	US 41A
*	KY 1525	0.8	Mine Entrance	2.6	KY 109
*	Old Eastwood Ferry Road				
	CR 5034	0.0	KY 56	0.1	Sebree Dock
*	Quinns Landing Road				
	CR 5036	0.0	Henderson CO LN	0.2	Big Rivers Plant

WHITLEY COUNTY

	ROAD		FROM		TO
*	US 25T	0.0	US 25W	0.7	US 25W
*	US 25W	1.7	Kensee Creek Rd	14.1	KY 26 (South)
	Weight Limit - Bridge over Clear Creek @ milepoint 5.04				
	TY I = 20 tons, TY II = 30 tons, TY III = 32 tons, TY IV = 39 tons				
	Weight Limit - Bridge over Clear Fork Creek @ milepoint 6.23				
	TY I = 20 tons, TY II = 30 tons, TY III = 32 tons, TY IV = 39 tons				
	Weight Limit - Bridge over L&N RR @ milepoint 11.02				
	TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons				
		32.1	KY 26 (North)	32.8	US 25T (South)
*	KY 6	0.8	KY 1064	1.6	Knox CO LN
	Weight Limit - Bridge over Corn Creek @ milepoint 1.64				
	TY I = 20 tons, TY II = 29 tons, TY III = 30 tons, TY IV = 49 tons				
*	KY 11	0.0	KY 92	2.6	Knox CO LN
*	KY 26	0.0	US 25W (South)	14.3	US 25W (North)
*	KY 92	0.0	McCreary CO LN	11.3	US 25W (South)
	Weight Limit - Bridge over Pleasant Run @ milepoint 0.23				
	TY I = 20 tons, TY II = 34 tons, TY III = 36 tons, TY IV = 58 tons				

Weight Limit - Bridge over Pleasant Run @ milepoint 1.51
TY I = 20 tons, TY II = 31 tons, TY III = 33 tons, TY IV = 46 tons
Weight Limit - Bridge over Jellico Creek @ milepoint 2.99
TY I = 20 tons, TY II = 25 tons, TY III = 28 tons, TY IV = 40 tons
Weight Limit - Bridge over Briar Creek @ milepoint 8.39
TY I = 14 tons, TY II = 14 tons, TY III = 14 tons, TY IV = 14 tons
Weight Limit - Bridge over I-75 @ milepoint 11.00
TY I = 20 tons, TY II = 40 tons, TY III = 39 tons, TY IV = 51 tons

	11.3 US 25W (North)		33.4 Bell CO LN

Weight Limit - Bridge over Cumberland River @ milepoint 22.02
TY I = 20 tons, TY II = 28 tons, TY III = 30 tons, TY IV = 42 tons
Weight Limit - Bridge over Golden Fork @ milepoint 26.66
TY I = 20 tons, TY II = 34 tons, TY III = 36 tons, TY IV = 50 tons
Weight Limit - Bridge over Harpes Creek @ milepoint 27.89
TY I = 20 tons, TY II = 38 tons, TY III = 38 tons, TY IV = 60 tons

*	KY 312	2.5 US 25W		2.6 Knox CO LN
*	KY 628	1.7 Mine		5.2 US 25W

Weight Limit - Bridge over Possum Creek @ milepoint 3.91
TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons
Weight Limit - Bridge over I-75 @ milepoint 4.91
TY I = 20 tons, TY II = 39 tons, TY III = 39 tons, TY IV = 48 tons

*	KY 779	6.3 KY 1064 (East)		12.7 KY 11

Weight Limit - Bridge over Cumberland River @ milepoint 11.83
TY I = 15 tons, TY II = 15 tons, TY III = 15 tons, TY IV = 15 tons

*	KY 904	0.0 KY 92 @ Suttons Mill		13.5 KY 92 @ Siler

Weight Limit - Bridge over Cumberland River @ milepoint 0.09
TY I = 15 tons, TY II = 15 tons, TY III = 15 tons, TY IV = 15 tons
Weight Limit - Bridge over Poplar Creek @ milepoint 13.44
TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 60 tons

*	KY 1064	0.0 KY 904 @ Dixie		5.1 KY 92 @ Louden

Weight Limit - Bridge over Cumberland River @ Louden
TY I = 12 tons, TY II = 12 tons, TY III = 12 tons, TY IV = 12 tons
Weight Limit - Bridge over Unnamed Stream 0.79 miles North of Louden
TY I = 10 tons, TY II = 10 tons, TY III = 10 tons, TY IV = 10 tons

		9.3 KY 779		17.1 KY 6
*	KY 1595	3.0 Mine		4.6 KY 92

Weight Limit - Bridge over Poplar Creek @ milepoint 4.49
TY I = 20 tons, TY II = 28 tons, TY III = 30 tons, TY IV = 52 tons

*	KY 1673	0.0 KY 92		0.4 McCreary CO LN
		0.4 McCreary CO LN		1.2 Ball Branch RD
*	KY 1809	0.0 KY 92		1.4 Knox CO LN

Weight Limit - Bridge over Golden Creek @ milepoint 0.21
TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 53 tons

*	Mosley Road			
	CR 5038	0.0 KY 1064		0.9 Mine
*	McNeil Hollow-Corn Creek Road			
	CR 5045	2.4 Brenda Mine		3.6 KY 1064
*	Doc Siler Road			
	CR 5223	0.0 Tennessee ST LN		0.1 Skaggs Branch RD
*	Skaggs Branch Road			
	CR 5224	0.0 Doc Siler RD		0.7 Bowlin Mine
*	Keswick-Gatliff Road			
	CR 5227	3.3 Upper Cane Creek RD		8.0 KY 904

Weight Limit - Bridge over Bennetts Branch
TY I = 20 tons, TY II = 28 tons, TY III = 33 tons, TY IV = 56 tons

*	Upper Cane Creek Road			
	CR 5230	0.0 Keswick-Gatliff RD		0.5 Mine
*	Jordan Hollow Road			
	CR 5321	0.0 KY 628 (East)		0.3 Mine
*	Kensee Creek Road			
	CR 5326	0.0 US 25W		0.8 Mine
*	Ryans Creek Road			
	CR 5335	0.0 KY 1898		4.3 McCreary CO LN
*	Ball Branch Road			
	CR 5338	0.0 KY 1673		0.6 Mine

Weight Limit - Bridge over Pleasant Run Creek
TY I = 12 tons, TY II = 12 tons, TY III = 12 tons, TY IV = 12 tons

WOLFE COUNTY

	ROAD	FROM		TO
*	Mountain PKWY (KY 402)			
		36.0 Powell CO LN		42.7 KY 155

*	KY 15	0.0	Breathitt CO LN	10.3	KY 651
	Weight Limit - Bridge over Holly Creek @ milepoint 1.79				
	TY I = 20 tons, TY II = 45 tons, TY III = 47 tons, TY IV = 60 tons				
		13.4	Mountain PKWY (KY 402)	14.0	KY 715
*	KY 15S	0.0	KY 15	1.1	Mountain PKWY (KY 402)
	Weight Limit - Bridge over Mountain Parkway @ milepoint 1.05				
	TY I = 20 tons, TY II = 45 tons, TY III = 47 tons, TY IV = 58 tons				
*	KY 651	2.0	KY 3355	2.1	KY 15
*	KY 715	2.6	KY 2016	5.8	KY 15
*	KY 2016	0.2	Mine	4.5	KY 715
*	KY 3355	0.0	KY 651	0.9	Mullins Point RD
*	Mullins Point Road				
	CR 5218	0.0	KY 3355	1.6	Mine

WOODFORD COUNTY

	ROAD	FROM		TO	
*	Bluegrass Parkway				
		61.9	Anderson CO LN	71.1	US 60
*	US 60	0.0	Franklin CO LN	13.0	Fayette CO LN
*	US 60X	1.0	US 62 in Versailles	1.8	US 60 East of Versailles
*	US 62	0.1	K.U. Tyrone Power Plant	7.1	US 60X in Versailles
	Weight Limit - Bridge under Southern R.R. @ Tyrone @ milepoint 0.1				
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons				

Section 5. No person shall operate, or knowingly cause to be operated, on any bridge listed in Section 4 of this administrative regulation any vehicle whose gross vehicle weight exceeds the weight limits specified for that bridge.

Section 6. In accordance with KRS 189.230(3), the Department of Highways shall post the gross vehicle weight limits for each bridge listed in Section 4 of this administrative regulation.

Section 7. No person shall operate, or knowingly cause to be operated, on any bridge on the extended weight coal haul road system any vehicle whose gross vehicle weight exceeds the limits specified by a notice posted pursuant to KRS 189.230(3).

Section 8. Resolutions of local governing bodies issued pursuant to KRS 177.9771(9) making recommendations to the Secretary of Transportation shall be submitted to: Secretary of Transportation, Transportation Cabinet, State Office Building, Frankfort, Kentucky 40622. The resolution shall set forth a specific description of the road or road segments under consideration. The resolution shall further set forth with specificity those conditions which give rise to inherent and definite hazards or create special conditions which the Secretary of the Transportation Cabinet needs to consider.

Section 9. A copy of the AASHTO Manual for Maintenance Inspection of Bridges, 1983 edition and 1984 and 1985 Interim Revisions is hereby incorporated by reference as part of this administrative regulation. A copy of the AASHTO Manual for Maintenance Inspection of Bridges, 1983 edition and 1984 and 1985 Interim Revisions may be viewed at the Transportation Cabinet, Department of Highways, Division of Maintenance, Frankfort, Kentucky. Copies of the AASHTO Manual for Maintenance Inspection of Bridges, 1983 edition and 1984 and 1985 Interim Revisions may be obtained from the American Association of State Highway and Transportation Officials, 444 North Capitol Street, N.W., Suite 225, Washington, D.C. 20001.

JEROME LENTZ, Commissioner
MILO D. BRYANT, Secretary
O. GILBERT NEWMAN, State Highway Engineer
APPROVED BY AGENCY: July 13, 1990
FILED WITH LRC: July 25, 1990 at 3 p.m.
PUBLIC HEARING: A public comment hearing will be held on this administrative regulation on September 25, 1990 at 9 a.m., local prevailing time in the Fourth Floor Hearing Room of the State Office Building located at the corner of High and Clinton Streets, Frankfort, Kentucky. Any person who intends to attend this hearing must in writing by September 20, 1990 so notify this agency. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public comment hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the administrative regulation. If the hearing is cancelled, written comments will only be accepted until September 20, 1990. Send written notification of intent to attend the public hearing or written comments on the administrative regulation to: Sandra G. Pullen, Executive's Staff Advisor, Transportation Cabinet, 10th Floor State Office Building, Frankfort, Kentucky 40622.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sandra G. Pullen
(1) Type and number of entities affected: 6,000 coal transporters.
(a) Direct and indirect costs or savings to those affected: Savings incurred as a result of being allowed to transport at extended weights over more roads. A light additional savings will occur because KY 1525 in Webster County will be resurfaced as soon as it is added to the extended weight coal haul road system. The savings will result from the need for less maintenance on vehicles using this road segment.
1. First year: No more than 50 trucks are likely to take advantage of the new road segment in the extended weight system, but each should have a savings of several thousand dollars.

2. Continuing costs or savings: Same
3. Additional factors increasing or decreasing costs (note any effects upon competition): These road segments are eligible for inclusion in the extended weight system, but the next general update of the system will not take place for several months. If the coal transporters were restricted to the 44,000-pound weight limit of these roads, they could not be competitive with other coal transporters in this area who are using the existing extended weight system. The fiscal court felt it appropriate to eliminate this economic barrier. In addition, a coal company is willing to put up $11,000 towards the resurfacing of the KY 1525 road segment.
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body: The road segment added to the extended weight system in Webster County requires major maintenance work immediately. The coal company primarily using the road is contributing $11,000 to its resurfacing. The road segments added to the EWCHRS in Henderson County will need additional maintenance work in the future because of the extended weights.
(a) Direct and indirect costs or savings:
1. First year: $11,000 savings.
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:
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: The Webster County Fiscal Court submitted a resolution to the cabinet requesting that a segment of KY 1525 be added to the extended weight coal haul road system. The Henderson County Fiscal Court submitted a resolution to the cabinet requesting that a section of KY 416 and one of KY 2096 be added to the EWCHRS.
TIERING: Was tiering applied? Yes. Tiering is necessary to limit the type of trucks which can use certain bridges on the extended weight coal haul road system.

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

707 KAR 1:041. Programs for deaf-blind children.

RELATES TO: KRS 156.031, 157.200, 157.220, 157.224, 157.230 [to 157.290], 167.210 [to 167.240]
STATUTORY AUTHORITY: 157.220 [156.070, 156.160]
NECESSITY AND FUNCTION: KRS 156.031 requires that regulations relating to statutes amended by the 1990 Kentucky Education Reform Act be reviewed, amended if necessary, and resubmitted to the Legislative Research Commission prior to December 30, 1990; KRS 157.200 sets forth definitions with respect to special education and exceptional children's programs; KRS 157.220 requires the State Board for Elementary and Secondary Education to promulgate administrative regulations for the proper administration of KRS 157.200 to 157.280; and 157.224 and 157.230 require local school districts to establish and operate appropriate special education programs for residents of their districts and KRS 167.210 defines "deaf-blind children." This regulation is necessary to regulate local [To promulgate State Board of Education regulations for] programs for deaf-blind children and [. This regulation is necessary] to assure uniformity in providing special education and related services to deaf-blind children, in conformance [and to conform] with the Education for All Handicapped Children Act, 20 U.S.C. 1400 et seq. [Public Law 94-142.]

Section 1. General Provisions. Local [school] boards of education shall be responsible for the education of resident deaf-blind children pursuant to KRS 157.200 to 157.290 [157.305], inclusive, 167.210, and the criteria set forth [listed] in this chapter.

Section 2. Eligibility Criteria. A deaf-blind pupil as defined by KRS 167.210 [whose combination of handicaps of deafness and blindness prevents him or her from profiting satisfactorily from educational programs provided for the blind child or the deaf child] shall be eligible to participate in an appropriate program for the deaf-blind.

Section 3. Admissions and Release Committee. As required and provided in 707 KAR 1:051, Section 3, a committee process shall be followed for the identification, evaluation and placement of deaf-blind children. The appropriate admissions and release committee shall assure that procedural safeguards as described in 707 KAR 1:051, Section 9, and 707 KAR 1:060 shall be followed.

Section 4. Child Evaluation. Appropriate child evaluation shall be assured by the appropriate admissions and release committee. Evaluation information shall be obtained pursuant to the requirements in 707 KAR 1:051, Section 4. The assessment of the referred pupil for identification and placement purposes shall consist of:
(1) An appropriate medical evaluation (e.g., otological, ophthalmological, neurological);
(2) An individual educational assessment of basic school skills;
(3) A social and [/] developmental history;
(4) An audiological evaluation;
(5) An individual psychological assessment; and
(6) A written behavioral observation of the child in familiar surroundings.

Section 5. Individual Education Program (IEP). As required and provided in 707 KAR 1:051, Section 5, for each pupil identified, the appropriate admissions and release committee shall develop and assure the implementation and annual review of the individual education program.

Section 6. Placement. Placement in a program for the deaf-blind shall be determined by the appropriate admissions and release committee

pursuant to procedures as described in 707 KAR 1:051, Section 3.

HENRY E. POGUE, IV, Chairman
APPROVED BY AGENCY: August 14, 1990
FILED WITH LRC: August 14, 1990 at 4 p.m.
PUBLIC HEARING: A public hearing on this regulation will be held on September 25, 1990 at 10 a.m. in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by September 20, 1990, five days prior to 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. The 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: Dr. Dan H. Branham, Secretary, State Board for Elementary and Secondary Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

CONTACT PERSON: J. Gary Bale, General Counsel, Office of Legal Services, Department of Education, 120 Capital Plaza Tower, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Linda F. Hargan
(1) Type and number of entities affected: 176 local school districts.
(a) Direct and indirect costs or savings to those affected: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A. No alternative methods were available to insure that the regulations reflected the intent of the Kentucky Education Reform Act.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. The provisions of the Kentucky Education Reform Act mandate the changes set forth in these amendments for all local school districts.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 34 CFR 300.5, 300.400-403, 300.510, .512.
2. State compliance standards. 707 KAR 1:041-1:059, 707 KAR 1:070, 707 KAR 1:080.
3. Minimum or uniform standards contained in the federal mandate. 34 CFR 300.5 requires the state to identify handicapped children in the categories defined in the federal mandate. 300.400-403 requires the state education agency to insure that all students placed by public schools in private schools are provided an educational program which meet the state's standards, and 300.510, .512 impose the requirements of system of appealing due process hearing decisions.
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? 707 KAR 1:041-1:059 establish eligibility requirements for identifying handicapped students in this state. 707 KAR 1:070 sets forth an approval process to insure that the mandates of 34 CFR 300.400 are met. 707 KAR 1:080 establishes a system for appealing due process hearing decisions. The changes made in these regulations are required under the Kentucky Education Reform Act, and should not impose stricter requirements than the federal mandates.
5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.

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

707 KAR 1:045. State plan for promotion of the education of the blind.

RELATES TO: KRS 156.031, 156.035, 156.476, 20 U.S.C. 101 et seq. [156.165, 156.200, 157.130, 157.200 to 157.290]
STATUTORY AUTHORITY: KRS 156.035, 156.476 [157.070, 157.160]
NECESSITY AND FUNCTION: KRS 156.031 requires that regulations relating to statutes amended by the 1990 Kentucky Education Reform Act be reviewed, amended if necessary, and resubmitted to the Legislative Research Commission prior to December 30, 1990; KRS 156.035 authorizes the State Board for Elementary and Secondary Education to implement the provisions of federal acts apportioning funds to the state; KRS 156.476 provides for textbooks for children with impair vision; and 20 U.S.C. 101 et seq. authorizes federal appropriations to the states for furnishing books and other materials specially adopted for instruction of the blind. This regulation is necessary to adopt a state plan for the administration of the Federal Act "To Promote the Education of the Blind," 20 U.S.C. 101 et seq., and [P.L. 91-230, and 93-380 as amended by 94-142, P.L. 88-352, is necessary] in order to receive the Commonwealth of Kentucky, Department of Education allotment which is administered through the American

Printing House for the Blind, Louisville, Kentucky.

Section 1. Definitions. (1) "Legal blindness" means central visual acuity of 20/200 or less in the better eye with correcting lenses, or a peripheral field so contracted that the widest diameter of such field subtends an angular distance no greater than twenty (20) degrees.

(2) "Blind student" means any legally blind individual pursuing a course of study in programs of less than college level in the Commonwealth of Kentucky other than students enrolled in the Kentucky School for the Blind or the Kentucky Industries and Rehabilitation Center for the Blind.

(3) "Schools" means any educational-based program of less than college level to include all public and private or [/] parochial preschools, elementary and secondary levels in the Commonwealth except the Kentucky School for the Blind or the Kentucky Industries and Rehabilitation Center for the Blind.

(4) "Eye specialist" means an ophthalmologist or optometrist.

(a) "Ophthalmologist" means a physician who is licensed to practice medicine and surgery and who specializes in diagnosis and treatment of defects of the eye.

(b) "Optometrist" means a licensed nonmedical practitioner who measures refractive errors and eye muscle disturbances.

(5) "Chief school official" means the superintendent of any local school district; the administrator or director of any nonpublic school.

(6) "Printing house" means the American Printing House for the Blind.

Section 2. General Provisions. The Kentucky Department of Education shall make available, subject to available monies from the Federal Act allotment, appropriate textbooks in braille or large type, recordings, educational aids, and special equipment to all legally blind students enrolled in any educational program within the Commonwealth of Kentucky provided the following criteria are met:

(1) Eligibility.

(a) The student shall [must] be legally blind.

(b) The visual acuity shall [must] be certified by an eye specialist.

(c) The eye examination shall [must] have been within six (6) months of the initial registration date if the student has not been previously registered and every two (2) years following the initial registration.

(d) Students shall [must] be enrolled in a school within Kentucky except the Kentucky School for the Blind or the Kentucky Industries and Rehabilitation Center for the Blind.

(e) Enrollment in school as of the first Monday in January shall [must] be certified by the chief school official.

(2) Registration.

(a) The State Department of Education shall provide registration forms to each educational program in Kentucky.

(b) Preregistration information shall be mailed from the State Department of Education by the first week in November.

(c) Official registration notices shall be mailed during the last week of December.

(d) Official registration shall be during the month of January. All such registrations shall be [are] taken as of the first Monday in January of each year to be used as the basis for determining a per capita rate for quota allotments for the ensuing federal fiscal year beginning the following October 1.

(e) Registration forms shall [must] be received by the Department of Education no later than the first Friday of February but no earlier than the first Monday in January.

Section 3. Administration of the Federal Act. (1) Designation of ex officio trustee.

(a) [The Superintendent of Public Instruction, as the chief state school official, or his designee, a member of the State Department of Education, is authorized by the Federal Act to serve as the ex officio trustee from the Commonwealth of Kentucky to serve as the administrative officer for the Federal Act.] The responsibility of administering the Kentucky allotment rests only with the Department of Education and its ex officio trustee under the federal act.

(b) The ex officio trustee shall be [is] directly responsible to the chief state school officer [Superintendent of Public Instruction] and the Associate [Assistant] Superintendent, Office of Education for Exceptional Children.

(2) Responsibilities of ex officio trustee. The privileges and responsibilities of the ex officio trustee include, but are not limited to the following:

(a) Preparing and submitting in writing to the chief state school officer [Superintendent of Public Instruction] and the Associate [Assistant] Superintendent at the close of the federal fiscal year, a report of the Federal Act allotment to include number of students registered, number of public and nonpublic schools participating and distribution of allocations and materials.

(b) Preparing and forwarding registration notifications to all chief school officials.

(c) Preparing, signing, and forwarding of registrations of blind students in educational programs of less than college grade to the Printing House.

(d) Receiving and signing certificates of allocation as of October 1, of each year.

(e) Receiving, approving, and forwarding of all orders to the Printing House to be charged to quota allocations.

(f) Receiving and handling all correspondence from the Printing House regarding quota orders; receiving and disseminating information from the Printing House with regard to requests for recommendations of materials to be published [and/]or manufactured for school use, and forwarding replies to the Printing House as requested; receiving and answering all requests for information which comes from the Printing House with regard to the Federal Act.

(g) Attendance at, and participation in, the annual board meeting of the ex officio trusteeship. Such participation may include serving on a Printing House committee.

Section 4. Control of Funds. (1) No direct cash allotments shall be [are] made to the state. The Kentucky allotment is deposited as credit in two (2) separate accounts with the Printing House.

(a) One (1) account shall [will] be for the materials needed for registered legally blind students attending the public schools.

(b) One (1) account shall [will] be for the materials needed for registered legally blind students attending the private and [/] nonpublic schools.

(2) All materials supplied through the Federal Act shall [must] be manufactured at, or processed by, the Printing House.

(3) Public school carry-over allotments.

(a) Unused public school allotments at the end of the federal fiscal year shall [will] be credited to a general ledger public school account for use based on priority needs. The ex officio trustee shall [will] have the responsibility for determining the greatest area of need for disbursement.

(b) If such allotment is available at the end of the federal fiscal year, each public school district having a student registered shall be informed of the availability of possible funds.

(4) Nonpublic carry-over allotments.

(a) Unused nonpublic school allotments at the end of the federal fiscal year shall [are to] remain within each nonpublic school unless such school no longer has a legally blind student registered.

(b) Should such nonpublic school have an unused allotment but no longer has a legally blind student registered, that unused amount shall [will] be credited to a general ledger nonpublic school account for use based on priority needs. The ex officio trustee shall [will] have the responsibility for determining the greatest area of need for disbursement.

(c) If such nonpublic allotment is available at the end of the federal fiscal year, each nonpublic school having a student registered shall be informed of the availability of possible funds.

Section 5. Civil Rights Act. (1) All schools registering a legally blind student shall [must] assure, in writing, compliance with Title VI of the Civil Rights Act of 1974.

(2) Forms of such compliance shall be provided to the schools by the Department of Education.

(3) Assurance of compliance forms shall [must] be submitted with the official registration form.

Section 6. Confidentiality. (1) All registration papers received shall be [are] considered confidential.

(2) The parent(s) or legal guardian of each blind student is required to sign the registration form authorizing the child's school to submit the information to the State Department of Education for registration.

(3) The ex officio trustee, as representative of the state, shall:

(a) Maintain a current listing of those persons within the State Department of Education who legitimately have access to the personally identifiable data;

(b) Assure that all data forms are maintained in locked storage;

(c) Mark all forms received as "Confidential Information."

(4) The Department of Education shall keep a record of all parties except parents and authorized agency employees obtaining access to the records of any child. These records shall [must] show the name of the party, date access was given, and the purpose for which information is to be used.

(5) If a folder contains data on more than one (1) child, inspection shall [may] only be permitted to data which relates specifically to the student in question.

Section 7. Local School Responsibility. (1) Designation of local authorized agent.

(a) The chief school official of each educational program having students registered through the Federal Act may represent the school or shall [must] designate one (1) professional employee as the "local authorized agent" for implementation of the Act at the local level.

(b) A statement of the name, title and address of each local agent shall be on file with the Department of Education.

(c) Designation forms shall [are to] be supplied by the State Department of Education to each school program registering legally blind students.

(2) The local authorized agent shall be responsible for:

(a) Implementing an identification and registration process at the local level for all legally blind students enrolled in school programs under their jurisdiction.

(b) Preparing and forwarding all registration forms to the ex officio trustee.

(c) Receiving and disseminating information from the State Department of Education related to registration and educational services for the legally blind.

(d) Preparing, signing and forwarding orders in duplicate of books and materials to be used by registered legally blind students to the ex officio trustee.

(e) Receiving and disbursing shipment of ordered books and materials to students for whom ordered.

(f) Returning textbooks and materials to the Department of Education should the student no longer reside in that school district or upon completion by the student for whom they were ordered.

(g) Maintaining and inventorying educational aids and special equipment within the school.

(h) Returning educational aids and special equipment when no longer needed in the school or when legally blind students are no longer registered.

Section 8. Textbooks, Recordings, educational Aids, and Special Equipment. [Property.]

(1) All textbooks, recordings, educational aids, and special equipment, provided to a student through the federal allotment are the property of the Department of Education.

(2) Educational aids and special equipment shall [will] be maintained by the school and inventoried at the close of the school term by the local authorized agent. When a school no longer has any legally blind student(s) registered, such educational aids and[/or] special equipment shall [must] be returned to the State Department of Education.

(3) The Department of Education shall maintain a central depository center to receive, inventory, and disburse requested books, aids, materials and equipment which have been returned.

(4) All textbooks, recordings, educational aids and special equipment returned to the Department of Education shall [must] be stamped "Property of the Kentucky State Department of Education."

Section 9. Destruction of Data. (1) All personally identifiable data shall [must] be

destroyed within a period of five (5) years following the end of services for that student.

(2) Parents shall be provided with notification sixty (60) days prior to the destruction of this information and shall [will] be afforded the opportunity of receiving a copy of any data which have been obtained or used related to their child. Notification to parents shall be made by letter.

(3) Data shall be destroyed by burning.

(4) A permanent record card consisting of a student's name, school address, last grade level and visual acuity may be maintained without time limitation.

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the State Board for Elementary and Secondary Education, as required by KRS 156.476.

JOHN H. BROCK, Superintendent

HENRY E. POGUE, IV, Chairman

APPROVED BY AGENCY: August 14, 1990

FILED WITH LRC: August 14, 1990 at 4 p.m.

PUBLIC HEARING: A public hearing on this regulation will be held on September 25, 1990 at 10 a.m. in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by September 20, 1990, five days prior to 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. The 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: Dr. Dan H. Branham, Secretary, State Board for Elementary and Secondary Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

CONTACT PERSON: J. Gary Bale, General Counsel, Office of Legal Services, Department of Education, 120 Capital Plaza Tower, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Linda F. Hargan

(1) Type and number of entities affected: 176 local school districts.

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

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A. No alternative methods were available to insure that the regulations reflected the intent of the Kentucky Education Reform Act.

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments:

TIERING: Was tiering applied? No. The provisions of the Kentucky Education Reform Act mandate the changes set forth in these amendments for all local school districts.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 34 CFR 300.5, 300.400-403, 300.510, .512.

2. State compliance standards. 707 KAR 1:041-1:059, 707 KAR 1:070, 707 KAR 1:080.

3. Minimum or uniform standards contained in the federal mandate. 34 CFR 300.5 requires the state to identify handicapped children in the categories defined in the federal mandate. 300.400-403 requires the state education agency to insure that all students placed by public schools in private schools are provided an educational program which meet the state's standards, and 300.510, .512 impose the requirements of system of appealing due process hearing decisions.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? 707 KAR 1:041-1:059 establish eligibility requirements for identifying handicapped students in this state. 707 KAR 1:070 sets forth an approval process to insure that the mandates of 34 CFR 300.400 are met. 707 KAR 1:080 establishes a system for appealing due process hearing decisions. The changes made in these regulations are required under the Kentucky Education Reform Act, and should not impose stricter requirements than the federal mandates.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.

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

707 KAR 1:052. Programs for children with communication disorders.

RELATES TO: KRS 156.031, 157.200, 157.220, 157.224, 157.230 [to 157.290]

STATUTORY AUTHORITY: KRS 157.220 [156.070, 156.160]

NECESSITY AND FUNCTION: KRS 156.031 requires that regulations relating to statutes amended by the 1990 Kentucky Education Reform Act be reviewed, amended if necessary, and resubmitted

to the Legislative Research Commission prior to December 30, 1990; KRS 157.200 sets forth definitions with respect to special education and exceptional children's programs; KRS 157.220 requires the State Board for Elementary and Secondary Education to promulgate administrative regulations for the proper administration of KRS 157.200 to 157.280; and 157.224 and 157.230 require local school districts to establish and operate appropriate special education programs for residents of their districts. This regulation is necessary to mandate establishment of appropriate local district [To promulgate State Board of Education regulations for] programs for children with communication disorders and [. This regulation is necessary] to assure uniformity in providing special education and related services to children with communication disorders, in conformance [and to conform] with the Education for All Handicapped Children Act, 20 U.S.C. 1400 et seq. [Public Law 94-142.]

Section 1. General Provisions. Local school boards of education shall operate programs for resident children of school attendance age with communication disorders pursuant to KRS 157.200 to 157.290 [285], inclusive, and the criteria set forth [listed] in this regulation [section].

Section 2. Programs for pupils with communication disorders of speech and language shall be operated according to the following provisions:

(1) Eligibility criteria.

(a) An admissions and release committee shall determine that a child has a communication disorder provided there is evidence of a disorder in language [and/]or speech, (i.e., dysfluency, impaired articulation or a voice impairment) which adversely affects the child's educational performance.

(b) A child who meets the above criteria shall be eligible for special education and related services.

(2) Admissions and release committee. As required and provided in 707 KAR 1:051, Section 3, a committee process shall be followed for the identification, evaluation and placement of communication disordered children. The appropriate admissions and release committee shall assure that procedural safeguards as described in 707 KAR 1:051, Sections 9 and 10, and 707 KAR 1:060 shall be followed.

(3) Child evaluation. Appropriate child evaluation shall be assured by the appropriate admissions and release committee. Evaluation information shall be obtained pursuant to the requirements in 707 KAR 1:051, Section 4 and shall include procedures that are appropriate for the diagnosis of speech and language disorders. The assessment of the referred pupil for identification and placement purposes shall include, where appropriate:

(a) The referring person's written assessment of the pupil's specific strengths and weaknesses in speech, language [and/]or hearing, when the child is referred by other than the speech/language pathologist;

(b) An evaluation of the receptive and expressive language skills;

(c) An appraisal of the structure and function of the speech mechanism;

(d) An evaluation of articulation proficiency;

(e) Written behavioral observations. The observations shall describe behaviors exhibited in familiar surroundings and shall be written for pupils with suspected disorders of fluency, voice, [and/]or language;

(f) An appraisal of voice quality and fluency; and

(g) An evaluation of auditory acuity and auditory processing.

(4) Individual education program (IEP). As required and provided in 707 KAR 1:051, Section 5, for each pupil identified, the appropriate admissions and release committee shall develop and assure the implementation and annual review of the individual education program.

(5) Placement. Placement in a program for communication disorders shall be determined by the appropriate admissions and release committee pursuant to procedures as described in 707 KAR 1:051, Section 6.

(6) Classroom plan. Classroom programs for communication disordered pupils shall operate pursuant to procedures as described in 707 KAR 1:051, Section 1. Classroom programs for communication disorders shall be established under the resource plan. Requests for approval of a variation plan shall be made to the Office of Education for Exceptional Children. Approval shall be based on the following:

(a) Rationale for the proposed plan;

(b) A detailed description of the proposed plan; and

(c) The method of annual evaluation to be used to determine the effectiveness of the proposed plan.

(7) Membership. Membership in programs for communication disorders of speech and language shall not exceed seventy-five (75) students per week [be]:

[Minimum	Maximum
35	75 per week]

Membership of the caseload for a speech/language pathologist providing services to severely handicapped pupils may be reduced to 20-35 by the Office of Education for Exceptional Children upon submission of written request and justification for such a reduction by the local school district.

(8) Planning time. One-half (1/2) day, or the equivalent of one-half (1/2) day, per week shall be allotted for planning and conferences.

(9) Mobile van. Local school districts shall have the authority to use a mobile van for the instructional program providing a written request has been submitted and approved by the Department of Education. Approval shall be made by the Office of Education for Exceptional Children in collaboration with the Division of Transportation.

Section 3. Programs for pupils with communication disorders of impaired hearing shall operate according to the following provisions:

(1) Eligibility criteria.

(a) An admissions and release committee shall determine that a child is hearing impaired provided the following eligibility criteria are met:

1. The child has a hearing loss ranging from mild to profound.

2. The loss shall be to such a degree that he[/she] does not use, with or without amplification, normal communication skills effectively.

3. The loss shall be to such a degree that it adversely affects his[/her] educational performance.

(b) A child who meets the above criteria shall be eligible for special education and related services.

(2) Admissions and release committee. As required and provided in 707 KAR 1:051, Section 3, a committee process shall be followed for the identification, evaluation and placement of hearing impaired children. The appropriate admissions and release committee shall assure that procedural safeguards as described in 707 KAR 1:051, Sections 9 and 10, and 707 KAR 1:060 shall be followed.

(3) Child evaluation. Appropriate evaluation of each child shall be assured by the appropriate admissions and release committee. Evaluation information shall be obtained pursuant to the requirements in 707 KAR 1:051, Section 4. The assessment of the referred pupil for identification and placement purposes shall consist of:

(a) A written behavioral observation of the referred pupil in familiar surroundings (e.g. [i.e.], classroom or [,] playground[, etc.]);

(b) The referring person's written assessment of the pupil's specific strengths and weaknesses in the basic skills area;

(c) Formal and informal educational evaluation data composed of individual [and/or group] standardized academic achievement tests and individual assessment of basic skills areas such as reading, math and language;

(d) A developmental and social history;

(e) An audiological evaluation including pure tone, air and bone conduction, speech reception threshold, and speech discrimination;

1. When fitted with hearing aids, the evaluation should include free field measurements by tones and speech for threshold, and speech discrimination; and

2. Examination of the earmold, cord receiver, harness and other components of the hearing aid.

(f) Receptive and expressive language evaluation and an evaluation of articulation proficiency; and

(g) Additional reports, information and assessments deemed necessary by the admissions and release committee for the appropriate placement of each child.

(4) Individual education program (IEP). As required and provided in 707 KAR 1:051, Section 5, for each pupil identified, the appropriate admissions and release committee shall develop and assure the implementation and annual review of the individual education program.

(5) Placement. Placement in a program for hearing impaired shall be determined by the appropriate admissions and release committee pursuant to procedures as described in 707 KAR 1:051, Section 6.

(6) Classroom plan. Classrooms for hearing impaired pupils shall operate pursuant to procedures as described in 707 KAR 1:051, Section 1. Classroom plans for hearing impaired pupils shall be established under the resource, special class, or variation plan.

(7) Membership and age range.

(a) Classroom membership and age range in programs for communication disorders of impaired shall be:

Classroom Plan (Units)	Membership	Unlimited
Special Class Plan	[3 to] 6	4 years
Resource Plan (Classroom Teacher)	[3 to] 8	6 years
Resource Plan (Itinerant Teacher)	[3 to] 10	Unlimited

(b) No more than four (4) pupils, all within a four (4) year age span, shall [may] be in the resource room during any one (1) instructional period.

(c) Variations of the above shall be considered for approval upon submission of written request and justification to the Office of Education for Exceptional Children. Factors for consideration of approval in determining pupil to [/] teacher ratio and age range shall [will] include, but [are] not be limited to, the following:

1. Age and grade level of the pupils;
2. Physical condition of the pupils; and
3. Support personnel.

HENRY E. POGUE, IV, Chairman
APPROVED BY AGENCY: August 14, 1990
FILED WITH LRC: August 14, 1990 at 4 p.m.

PUBLIC HEARING: A public hearing on this regulation will be held on September 25, 1990 at 10 a.m. in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by September 20, 1990, five days prior to 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. The 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: Dr. Dan H. Branham, Secretary, State Board for Elementary and Secondary Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

CONTACT PERSON: J. Gary Bale, General Counsel, Office of Legal Services, Department of Education, 120 Capital Plaza Tower, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Linda F. Hargan

(1) Type and number of entities affected: 176 local school districts.

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

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

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None

1. First year:
2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A. No alternative methods were available to insure that the regulations reflected the intent of the Kentucky Education Reform Act.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. The provisions of the Kentucky Education Reform Act mandate the changes set forth in these amendments for all local school districts.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 34 CFR 300.5, 300.400-403, 300.510, .512.
2. State compliance standards. 707 KAR 1:041-1:059, 707 KAR 1:070, 707 KAR 1:080.
3. Minimum or uniform standards contained in the federal mandate. 34 CFR 300.5 requires the state to identify handicapped children in the categories defined in the federal mandate. 300.400-403 requires the state education agency to insure that all students placed by public schools in private schools are provided an educational program which meet the state's standards, and 300.510, .512 impose the requirements of system of appealing due process hearing decisions.
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? 707 KAR 1:041-1:059 establish eligibility requirements for identifying handicapped students in this state. 707 KAR 1:070 sets forth an approval process to insure that the mandates of 34 CFR 300.400 are met. 707 KAR 1:080 establishes a system for appealing due process hearing decisions. The changes made in these regulations are required under the Kentucky Education Reform Act, and should not impose stricter requirements than the federal mandates.
5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.

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

707 KAR 1:053. Programs for physically handicapped and other health impaired children.

RELATES TO: KRS 156.031, 157.200, 157.220, 157.224, 157.230 [to 157.290]
STATUTORY AUTHORITY: KRS 157.220 [156.070, 156.160]
NECESSITY AND FUNCTION: KRS 156.031 requires that regulations relating to statutes amended by the 1990 Kentucky Education Reform Act be reviewed, amended if necessary, and resubmitted to the Legislative Research Commission prior to December 30, 1990; KRS 157.200 sets forth definitions with respect to special education and exceptional children's programs; KRS 157.220 requires the State Board for Elementary and Secondary Education to promulgate administrative regulations for the proper administration of KRS 157.200 to 157.280; and 157.224 and 157.230 require local school districts to establish and operate appropriate special education programs for residents of their districts. This regulation is necessary to mandate establishment of appropriate local district programs [To promulgate State Board of Education regulations] for physically handicapped and other health impaired children and [. This regulation is necessary] to assure uniformity in providing special education and related services to physically handicapped and other health impaired children, in conformance [and to conform] with the Education for All Handicapped Children Act, 20 U.S.C. 1400 et seq [Public Law 94-142].

Section 1. General Provisions. Local school boards of education shall operate programs for resident physically handicapped and other health impaired children of school attendance age pursuant to KRS 157.200 to 157.290 [285,] inclusive, and the criteria set forth [listed] in this section.

Section 2. Eligibility Criteria. (1) An admissions and release committee shall determine that a child is physically handicapped provided the child has a severe orthopedic impairment which adversely affects a child's educational performance. The term includes impairments caused by congenital anomaly (e.g., clubfoot, absence of hand, arm, or leg[, etc.]), impairments caused by disease (e.g., poliomyelitis, or bone tuberculosis[, etc.]) and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns which cause contractures).
(2) An admissions and release committee shall determine a child is otherwise health impaired provided the following criteria are met:
(a) The child has limited strength, vitality or alertness, due to chronic or acute health problems such as a heart condition, tuberculosis, sickle cell anemia, hemophilia, epilepsy, rheumatic fever, nephritis, asthma, lead poisoning, leukemia, or diabetes.
(b) The condition(s) of the child adversely affects the child's educational performance.
(3) A child who meets the above criteria shall be eligible for special education and related services.

Section 3. Admissions and Release Committee. As required and provided in 707 KAR 1:051, Section 3, a committee process shall be followed for the identification, evaluation and placement of physically handicapped and other health impaired children. The appropriate admissions and release committee shall assure that procedural safeguards as described in 707 KAR 1:051, Sections 9 and 10, and 707 KAR 1:060 shall be followed.

Section 4. Child Evaluation. (1) Appropriate child evaluation shall be assured by the appropriate admissions and release committee.

Evaluation information shall be obtained pursuant to the requirements in 707 KAR 1:051, Section 4. Evaluation for identification and placement shall include:

(a) An educationally relevant medical statement;

(b) A developmental and social history;

(c) An individual assessment of basic skills, (i.e., reading, math, language); and

(d) A written behavioral observation.

(2) Additional reports, such as physical therapy and occupational therapy as deemed necessary by the admissions and release committee, may be utilized for the appropriate placement of each child.

Section 5. Individual Education Program (IEP). As required and provided in 707 KAR 1:051, Section 5, for each child identified, the appropriate admissions and release committee shall develop and assure the implementation and annual review of an individual education program.

Section 6. Placement. Placement in a program for physically handicapped and other health impaired shall be determined by the appropriate admissions and release committee pursuant to procedures as described in 707 KAR 1:051, Section 6.

Section 7. Classroom Plan. Programs for physically handicapped and other health impaired pupils shall be established under the special class, resource, or variation plan as described in 707 KAR 1:051, Section 1.

Section 8. Membership and Age Range. (1) Classroom membership and age range in programs for the physically handicapped and other health impaired shall be as follows:

Classroom Plan [(Units)]	Maximum Membership	Age Range
Special Class Plan	[8 to] 16	6 years
Resource Plan	[8 to] 20	6 years

(2) No more than eight (8) pupils shall [may] be in the resource room during any one (1) instructional period.

(3) Variations of the above shall be considered for approval upon submission of written request and justification to the Office of Education for Exceptional Children. Factors for consideration of approval in determining pupil to [/] teacher ratio and age range shall [will] include, but [are] not be limited to, the following:

(a) Age and grade level of the pupils;

(b) Physical condition of the pupils; and

(c) Support personnel.

HENRY E. POGUE, IV, Chairman

APPROVED BY AGENCY: August 14, 1990

FILED WITH LRC: August 14, 1990 at 4 p.m.

PUBLIC HEARING: A public hearing on this regulation will be held on September 25, 1990 at 10 a.m. in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by September 20, 1990, five days prior to 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. The 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: Dr. Dan H. Branham, Secretary, State Board for Elementary and Secondary Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

CONTACT PERSON: J. Gary Bale, General Counsel, Office of Legal Services, Department of Education, 120 Capital Plaza Tower, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Linda F. Hargan

(1) Type and number of entities affected: 176 local school districts.

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

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A. No alternative methods were available to insure that the regulations reflected the intent of the Kentucky Education Reform Act.

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments:

TIERING: Was tiering applied? No. The provisions of the Kentucky Education Reform Act mandate the changes set forth in these amendments for all local school districts.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 34 CFR 300.5, 300.400-403, 300.510, .512.

2. State compliance standards. 707 KAR 1:041-1:059, 707 KAR 1:070, 707 KAR 1:080.

3. Minimum or uniform standards contained in the federal mandate. 34 CFR 300.5 requires the state to identify handicapped children in the categories defined in the federal mandate. 300.400-403 requires the state education agency to insure that all students placed by public

schools in private schools are provided an educational program which meet the state's standards, and 300.510, .512 impose the requirements of system of appealing due process hearing decisions.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? 707 KAR 1:041-1:059 establish eligibility requirements for identifying handicapped students in this state. 707 KAR 1:070 sets forth an approval process to insure that the mandates of 34 CFR 300.400 are met. 707 KAR 1:080 establishes a system for appealing due process hearing decisions. The changes made in these regulations are required under the Kentucky Education Reform Act, and should not impose stricter requirements than the federal mandates.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.

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

707 KAR 1:054. Programs for the emotionally disturbed; behavior disordered.

RELATES TO: KRS 156.031, 157.200, 157.220, 157.224, 157.230 [to 157.290]

STATUTORY AUTHORITY: KRS 157.220 [156.070, 156.160]

NECESSITY AND FUNCTION: KRS 156.031 requires that regulations relating to statutes amended by the 1990 Kentucky Education Reform Act be reviewed, amended if necessary, and resubmitted to the Legislative Research Commission prior to December 30, 1990; KRS 157.200 sets forth definitions with respect to special education and exceptional children's programs; KRS 157.220 requires the State Board for Elementary and Secondary Education to promulgate administrative regulations for the proper administration of KRS 157.200 to 157.280; and 157.224 and 157.230 require local school districts to establish and operate appropriate special education programs for residents of their districts. This regulation is necessary to mandate establishment of appropriate local district [To promulgate State Board of Education regulations for] programs for emotionally disturbed (behavior disordered) children and [. This regulation is necessary] to assure uniformity in providing special education and related services to emotionally disturbed children, in conformance [and to conform] with the Education for All Handicapped Children Act, 20 U.S.C. 1400 et seq [Public Law 94-142].

Section 1. General Provisions. Local school boards of education shall operate programs for the resident emotionally disturbed (behavior disordered) of school attendance age pursuant to KRS 157.200 to 157.290 [285], inclusive, and the criteria set forth [listed] in this regulation [section].

Section 2. Eligibility Criteria. (1) An admissions and release committee shall determine that a child is emotionally disturbed (behavior disordered) provided the following eligibility criteria are met:

(a) The child manifests symptoms characterized by diagnostic labels such as psychosis, schizophrenia and autism; [and/]or

(b) The child demonstrates one or more of the following characteristics over a long period of time and to a marked degree, which adversely affects educational performance:

1. An inability to learn at a rate commensurate with intellectual, sensory-motor [and/]or physical development because of emotional problems;

2. An inability to build or maintain satisfactory interpersonal relationships with peers and adults;

3. Behavior which is disruptive to the learning process of other students or himself;

4. A general pervasive mood of unhappiness or depression; or [and]

5. A tendency to develop physical symptoms or fears associated with personal or school problems;

(c) The criteria do[es] not include those who are socially maladjusted, unless it is determined that they are seriously emotionally disturbed.

(2) A child who meets the above criteria shall be eligible for special education and related services.

Section 3. Admissions and Release Committee. As required and provided in 707 KAR 1:051, Section 3, a committee process shall be followed for the identification, evaluation, and placement of emotionally disturbed (behavior disordered) pupils. The appropriate admissions and release committee shall assure that procedural safeguards as described in 707 KAR 1:051, Sections 9 and 10, and 707 KAR 1:060 shall be followed.

Section 4. Child Evaluation. Appropriate child evaluation shall be assured by the appropriate admissions and release committee. Evaluation information shall be obtained pursuant to the requirements in 707 KAR 1:051, Section 4. The assessment of the referred pupil for identification and placement purposes shall consist of:

(1) A health screening which [would] indicates there are no primary visual, auditory or physical handicapping conditions;

(2) A written account of specific behavioral data collected over a period of time by the referral source describing the behavior(s) of concern;

(3) A written compilation of data from direct observations of the referred pupil in familiar surroundings by a person other than the referral source;

(4) An individual educational assessment of the referred pupil's specific strengths and weaknesses in basic skill areas;

(5) An individual psychological or psychiatric evaluation;

(6) A developmental and social history;

(7) A written record or [/] evidence of previous educational and behavioral intervention strategies that have been utilized.

Section 5. Individual Education Program (IEP). As required and provided in 707 KAR 1:051, Section 5, for each pupil identified, the appropriate admissions and release committee

shall develop and assure the implementation and annual review of an individual education program.

Section 6. Placement. Placement in a program for the emotionally disturbed (behavior disordered) pupils shall be determined by the appropriate admissions and release committee pursuant to procedures as described in 707 KAR 1:051, Section 6.

Section 7. Classroom Plan. Classroom plans for the emotionally disturbed (behavior disordered) shall operate pursuant to procedures as described in 707 KAR 1:051, Section 1. Classroom plans for emotionally disturbed (behavior disordered) pupils shall be established under the resource special class or variation plan.

Section 8. Membership and Age Range. (1) Classroom membership and age range in programs for the emotionally disturbed (behavior disordered) shall be as follows:

Classroom Plan [(Units)]	Maximum Membership	Age Range
Special Class Plan	[5 to] 8	4 years
Resource Plan	[6 to] 15	6 years

(2) No more than eight (8) pupils, all within the four (4) year age span, shall [may] be in the resource room during any one (1) instructional period.

(3) Variations of the above shall be considered for approval upon submission of written request and justification to the Office of Education for Exceptional Children. Factors for consideration of approval in determining pupil to [/] teacher ratio and age shall [will] include, but [are] not be limited to, the following:

(a) Age and grade level of the pupils;
(b) Physical condition of the pupils; and
(c) Support personnel.

HENRY E. POGUE, IV, Chairman
APPROVED BY AGENCY: August 14, 1990
FILED WITH LRC: August 14, 1990 at 4 p.m.

PUBLIC HEARING: A public hearing on this regulation will be held on September 25, 1990 at 10 a.m. in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by September 20, 1990, five days prior to 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. The 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: Dr. Dan H. Branham, Secretary, State Board for Elementary and Secondary Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

CONTACT PERSON: J. Gary Bale, General Counsel, Office of Legal Services, Department of Education, 120 Capital Plaza Tower, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Linda F. Hargan
(1) Type and number of entities affected: 176 local school districts.
(a) Direct and indirect costs or savings to those affected: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A. No alternative methods were available to insure that the regulations reflected the intent of the Kentucky Education Reform Act.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. The provisions of the Kentucky Education Reform Act mandate the changes set forth in these amendments for all local school districts.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 34 CFR 300.5, 300.400-403, 300.510, .512.
2. State compliance standards. 707 KAR 1:041-1:059, 707 KAR 1:070, 707 KAR 1:080.
3. Minimum or uniform standards contained in the federal mandate. 34 CFR 300.5 requires the state to identify handicapped children in the categories defined in the federal mandate. 300.400-403 requires the state education agency to insure that all students placed by public schools in private schools are provided an educational program which meet the state's standards, and 300.510, .512 impose the requirements of system of appealing due process hearing decisions.
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? 707 KAR 1:041-1:059 establish eligibility requirements for identifying handicapped students in this state. 707 KAR 1:070 sets forth an approval process to insure that the mandates of 34 CFR 300.400 are met. 707 KAR 1:080 establishes a system for appealing due process hearing decisions. The changes made in these regulations are required under the Kentucky Education Reform

Act, and should not impose stricter requirements than the federal mandates.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.

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

707 KAR 1:055. Programs for home [instruction] and[/or] hospital instruction.

RELATES TO: KRS 156.031, 157.220, 157.270 [to 157.360], 159.030

STATUTORY AUTHORITY: KRS [156.070,] 157.220, 159.030

NECESSITY AND FUNCTION: KRS 156.031 requires that regulations relating to statutes amended by the 1990 Kentucky Education Reform Act be reviewed, amended if necessary, and resubmitted to the Legislative Research Commission prior to December 30, 1990; KRS 157.220 requires the State Board for Elementary and Secondary Education to promulgate administrative regulations for the proper administration of KRS 157.200 to 157.280; KRS 157.270 provides for home and hospital instruction of appropriate exceptional children; [KRS 157.360 provides the state funding mechanism for home and hospital instruction of exceptional children;] and KRS 159.030 provides for home and hospital instruction for all pupils whose physical or mental condition renders school attendance inadvisable. This regulation is necessary to assure uniformity in providing special education and related services in a [the] home [and/]or hospital setting and to conform with the Education for All Handicapped Children Act, 20 U.S.C. 1400 et seq. [Public Law 94-142], and in order to assure uniform educational services for nonexceptional children in a [the] home or hospital setting.

Section 1. General Provisions. Local school boards of education shall operate programs for home instruction and[/or] hospital instruction for children of school attendance age pursuant to KRS 157.200 to 157.285, inclusive, and the criteria set forth [listed] in this regulation [section].

Section 2. Eligibility Criteria. An admissions and release committee shall determine that an exceptional child shall be eligible for instruction in the home, hospital, or sanitarium provided the following criteria are met:

(1) The child is identified as exceptional by meeting the eligibility criteria for one (1) of the categorical programs;

(2) The identified child needs special education and related services; and[/or]

(3) The condition of the identified child prevents or renders inadvisable attendance at school, based on a signed medical statement(s) as required by KRS 159.030(2). Forms for the required statement(s) shall be provided by the department of education.

Section 3. Admissions and Release Committee. As required and provided in 707 KAR 1:051, Section 3, a committee process shall be followed for the identification, evaluation, and placement of exceptional children, as defined in KRS 157.200, in a [the] home [instruction and/]or hospital instruction program. The appropriate admissions and release committee shall assure that procedural safeguards as described in 707 KAR 1:051, Sections 9 and 10, and 707 KAR 1:060 shall be followed. The admissions and release committee shall review the statement of the child's condition and any additional reports, information, and assessments that it deems necessary for the placement of each individual child in an appropriate educational program.

Section 4. Child Evaluation. Appropriate child evaluation shall be assured by the appropriate admissions and release committee. Evaluation information shall be obtained pursuant to the requirements in 707 KAR 1:051, Section 4 and the appropriate categorical regulation(s). Evaluations shall include:

(1) A developmental and social history;

(2) Medical statement(s) pursuant to KRS 159.030;

(3) An individual assessment of basic skills (i.e., math, reading, language);

(4) Written behavioral observation; and[/or]

(5) Additional reports, information, and assessments deemed necessary by the admissions and release committee for the appropriate placement of each child.

Section 5. Individual Education Program (IEP). As required and provided in 707 KAR 1:051, Section 5, for each exceptional child identified, the appropriate admissions and release committee shall develop and assure the implementation and annual review of an individual education program. The IEP is required for each exceptional child placed in a program for home [instruction and/]or hospital instruction.

Section 6. Placement. Placement in a home [instruction and/]or hospital instruction program shall be determined by the appropriate admissions and release committee pursuant to procedures as described in 707 KAR 1:051, Section 6. The child shall be returned to a less restrictive and more appropriate educational environment when improvement of the condition renders this advisable. Home instruction shall not be used as a substitute for a more appropriate educational placement for exceptional children. In addition, a temporary placement as an interim placement may occur for thirty (30) school days as determined by the appropriate admissions and release committee for exceptional students who need an alternative placement which is not currently available. A responsible adult shall be in the home during the time the home instruction teacher is present.

Section 7. Classroom Plan. Programs for home [instruction] and[/or] hospital instruction shall be established pursuant to the plan(s) as described in 707 KAR 1:051, Section 1.

Section 8. Membership and Age Range. Classroom membership and age range in programs for home instruction and[/or] hospital instruction shall be as follows:

Classroom Plans [(Units)]	Average Daily Attendance	Age Range
Home Instruction Plan- Itinerant Teacher	10	unlimited
Hospital Based- Special Class Teacher	10	unlimited
Home or Hospital Based- Visiting Itinerant Teacher	1 to 10	unlimited

Section 9. Temporary Placement for Nonexceptional Children. Local boards of education shall implement referral and placement procedures in accordance with local board policy for children with temporary conditions such as fractures, surgical recuperation, or other short-range physical or health impairments who do not meet eligibility criteria for a category of exceptionality. The condition of pregnancy is not to be considered a physical or health impairment in and of itself. Local school districts do not need to follow the due process procedures outlined in 707 KAR 1:051 when placing nonexceptional students, but shall [must] assure that the condition of the identified child prevents or renders inadvisable attendance at school based on a signed medical statement(s) as required by KRS 159.030. Forms for the required statement(s) shall be provided by the Department of Education.

Section 10. The exceptional child who has a temporary condition as defined in Section 9 of this regulation may be placed on home or [and] hospital instruction following appropriate recommendations by the admissions and release committee and specified in the individual education program.

HENRY E. POGUE, IV, Chairman
APPROVED BY AGENCY: August 14, 1990
FILED WITH LRC: August 14, 1990 at 4 p.m.
PUBLIC HEARING: A public hearing on this regulation will be held on September 25, 1990 at 10 a.m. in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by September 20, 1990, five days prior to 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. The 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: Dr. Dan H. Branham, Secretary, State Board for Elementary and Secondary Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

CONTACT PERSON: J. Gary Bale, General Counsel, Office of Legal Services, Department of Education, 120 Capital Plaza Tower, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Linda F. Hargan
(1) Type and number of entities affected: 176 local school districts.
(a) Direct and indirect costs or savings to those affected: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A. No alternative methods were available to insure that the regulations reflected the intent of the Kentucky Education Reform Act.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. The provisions of the Kentucky Education Reform Act mandate the changes set forth in these amendments for all local school districts.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 34 CFR 300.5, 300.400-403, 300.510, .512.
2. State compliance standards. 707 KAR 1:041-1:059, 707 KAR 1:070, 707 KAR 1:080.
3. Minimum or uniform standards contained in the federal mandate. 34 CFR 300.5 requires the state to identify handicapped children in the categories defined in the federal mandate. 300.400-403 requires the state education agency to insure that all students placed by public schools in private schools are provided an educational program which meet the state's standards, and 300.510, .512 impose the requirements of system of appealing due process hearing decisions.
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? 707 KAR 1:041-1:059 establish eligibility requirements for identifying handicapped students in this state. 707 KAR 1:070 sets forth an approval process to insure that the mandates of 34 CFR 300.400 are met. 707 KAR 1:080 establishes a system for appealing due process hearing decisions. The changes made in these regulations are required under the Kentucky Education Reform Act, and should not impose stricter requirements than the federal mandates.
5. Justification for the imposition of the

stricter standard, or additional or different responsibilities or requirements.

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

707 KAR 1:056. Programs for children with specific learning disabilities.

RELATES TO: KRS 156.031, 157.200, 157.220, 157.224, 157.230 [to 157.290]
PURSUANT TO: KRS 157.220 [156.070, 156.160]
NECESSITY AND FUNCTION: KRS 156.031 requires that regulations relating to statutes amended by the 1990 Kentucky Education Reform Act be reviewed, amended if necessary, and resubmitted to the Legislative Research Commission prior to December 30, 1990; KRS 157.200 sets forth definitions with respect to special education and exceptional children's programs; KRS 157.220 requires the State Board for Elementary and Secondary Education to promulgate administrative regulations for the proper administration of KRS 157.200 to 157.280; and 157.224 and 157.230 require local school districts to establish and operate appropriate special education programs for residents of their districts. This regulation is necessary to mandate establishment of appropriate local district programs [To promulgate State Board of Education regulations] for learning disabled children and [. The regulation is necessary] to assure uniformity in providing special education and related services to children with specific learning disabilities, in conformance [and to conform] with the Education for All Handicapped Children Act, 20 U.S.C. 1400 et seq. [Public Law 94-142.]

Section 1. General Provisions. Local school boards of education shall operate programs for resident learning disabled children of school attendance age pursuant to KRS 157.200 to 157.290 [157.285], inclusive, and the criteria set forth [listed] in this regulation [section].

Section 2. Eligibility Criteria. (1) An admissions and release committee shall determine that a child has a specific learning disability provided the following eligibility criteria are met:
(a) The child does not achieve commensurate with his or her age and ability levels when provided with learning experiences appropriate for the child's age and ability levels (in one or more of the seven (7) areas listed below):
1. Oral expression;
2. Listening comprehension;
3. Written expression;
4. Basic reading skills;
5. Reading comprehension;
6. Mathematics calculation; [and/]or
7. Mathematics reasoning.
(b) The child has a severe discrepancy between achievement and intellectual ability in one or more of the seven (7) areas listed above.
(2) The admissions and release committee shall not identify a child as having a specific learning disability if the severe discrepancy between ability and achievement is primarily the result of:
(a) A visual, hearing or motor handicap;
(b) Mental retardation;
(c) Emotional disturbance; or
(d) Environmental, cultural or economic disadvantage.
(3) A child who meets the above criteria shall be eligible for special education and related services.

Section 3. Admissions and Release Committee. As required and provided in 707 KAR 1:051, Section 3, a committee process shall be followed for the identification, evaluation and placement of learning disabled children. The appropriate admissions and release committee shall assure that procedural safeguards as described in 707 KAR 1:051, Sections 9 and 10, and 707 KAR 1:060 shall be followed.

Section 4. Child Evaluation. Appropriate child evaluation shall be assured by the appropriate admissions and release committee. Evaluation information shall be obtained pursuant to the requirements in 707 KAR 1:051, Section 4.
(1) Team membership. In order to evaluate and identify children with specific learning disabilities, the team membership shall include, but not be limited to:
(a) Referred pupil's regular education teacher; or
[1.] if the child does not have a regular education teacher, then a teacher qualified to teach a child of his or her age; or [.
2.] for a child of less than school age, an individual qualified by the state education agency to teach a child of his or her age.
(b) At least one (1) person qualified to conduct individual diagnostic examinations including administration of individual intelligence tests.
(c) Certified teacher of the learning disabled.
(d) Other individuals as needed, such as:
1. Speech and language pathologist;
2. Guidance counselors;
3. Remedial reading teacher; [and/]or
4. Physician.
(2) Assessment for identification and placement. The assessment for identification and placement shall consist of the following:
(a) The referring person's written assessment of the pupil's specific strengths and weaknesses in the academic and behavioral areas.
(b) Written behavioral observations. The behavior observations shall be a compilation of specific behavioral data collected over a period of time describing the behaviors of concern including: [.]
1. An evaluation team member other than the child's regular teacher shall observe the child's academic performance in the regular classroom setting.
2. In the case of a child of less than school age or out of school a team member shall observe the child in an environment appropriate for a child of that age.
(c) Formal and informal educational evaluation data composed of individual standardized and informal test(s) of basic skills and individual assessment in all areas of the students suspected disability as stated in Section 2 of this regulation.
(d) An individual measure of intelligence.
(e) An assessment of adaptive behavior including a developmental history.
(f) In cases where vision, hearing, or serious emotional disturbance is suspected to be the primary handicapping condition, a referral for

appropriate assessments by qualified professional(s) shall be made.

Section 5. Written Report. The evaluation team shall prepare a written report of the results of the evaluation.

(1) The report shall include a statement of:

(a) Whether the child has a specific learning disability;

(b) The basis for making the determination;

(c) The relevant behavior noted during the observation of the child;

(d) The relationship of that behavior to the child's academic functioning;

(e) The educationally relevant medical findings, if any;

(f) Whether there is a severe discrepancy between achievement and ability which is not correctable without special education and related services; and

(g) The determination of the evaluation team concerning the effects of environmental, cultural, or economic disadvantage on the child's performance.

(2) Each evaluation team member shall certify in writing whether the report reflects his or her conclusion. If it does not reflect his or her conclusion, the evaluation team member shall submit a separate statement presenting his or her conclusions.

Section 6. Individual Education Program (IEP). As required and provided in 707 KAR 1:051, Section 5, for each child identified the appropriate admissions and release committee shall develop and assure the implementation and annual review of an individual education program.

Section 7. Placement. Placement in a program for children with specific learning disabilities shall be determined by the appropriate admissions and release committee pursuant to procedures as described in 707 KAR 1:051, Section 6.

Section 8. Classroom Plan. Classroom programs for children with specific learning disabilities shall operate pursuant to procedures as described in 707 KAR 1:051, Section 1. The following types of classroom plans shall be utilized: resource variation, and special class plan. An itinerant teacher shall not serve more than two (2) schools and shall operate as a resource plan.

Section 9. Membership and Age Range. (1) Classroom membership and age range in programs for pupils with specific learning disabilities shall be:

Classroom Plan [(Units)]	Membership	Age Range
Resource Plan		
Primary through Intermediate	[8 to] 15	6 years
Junior through Senior High	[8 to] 20	6 years
Special Class Plan		
Primary through Intermediate	[6 to] 10	4 years
Junior through Senior High	[6 to] 15	4 years

(2) No more than eight (8) pupils, all within a four (4) year age span, shall [may] be in the resource room during any one (1) instructional period.

(3) Variations of the above shall be considered for approval upon submission of written request and justification to the Office of Education for Exceptional Children. Factors for consideration of approval in determining pupil to [/] teacher ratio and age range shall [will] include, but [are] not be limited to, the following:

(a) Age and grade level of the pupils;

(b) Physical condition of the pupils; and

(c) Support personnel.

HENRY E. POGUE, IV, Chairman

APPROVED BY AGENCY: August 14, 1990

FILED WITH LRC: August 14, 1990 at 4 p.m.

PUBLIC HEARING: A public hearing on this regulation will be held on September 25, 1990 at 10 a.m. in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by September 20, 1990, five days prior to 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. The 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: Dr. Dan H. Branham, Secretary, State Board for Elementary and Secondary Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

CONTACT PERSON: J. Gary Bale, General Counsel, Office of Legal Services, Department of Education, 120 Capital Plaza Tower, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Linda F. Hargan

(1) Type and number of entities affected: 176 local school districts.

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

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A. No alternative methods were available to insure

that the regulations reflected the intent of the Kentucky Education Reform Act.

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments:

TIERING: Was tiering applied? No. The provisions of the Kentucky Education Reform Act mandate the changes set forth in these amendments for all local school districts.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 34 CFR 300.5, 300.400-403, 300.510, .512.

2. State compliance standards. 707 KAR 1:041-1:059, 707 KAR 1:070, 707 KAR 1:080.

3. Minimum or uniform standards contained in the federal mandate. 34 CFR 300.5 requires the state to identify handicapped children in the categories defined in the federal mandate. 300.400-403 requires the state education agency to insure that all students placed by public schools in private schools are provided an educational program which meet the state's standards, and 300.510, .512 impose the requirements of system of appealing due process hearing decisions.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? 707 KAR 1:041-1:059 establish eligibility requirements for identifying handicapped students in this state. 707 KAR 1:070 sets forth an approval process to insure that the mandates of 34 CFR 300.400 are met. 707 KAR 1:080 establishes a system for appealing due process hearing decisions. The changes made in these regulations are required under the Kentucky Education Reform Act, and should not impose stricter requirements than the federal mandates.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.

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

707 KAR 1:057. Programs for mentally handicapped children.

RELATES TO: KRS 156.031, 157.200, 157.220, 157.224, 157.230 [to 157.290]

STATUTORY AUTHORITY: KRS 157.220 [156.070, 156.160]

NECESSITY AND FUNCTION: KRS 156.031 requires that regulations relating to statutes amended by the 1990 Kentucky Education Reform Act be reviewed, amended if necessary, and resubmitted to the Legislative Research Commission prior to December 30, 1990; KRS 157.200 sets forth definitions with respect to special education and exceptional children's programs; KRS 157.220 requires the State Board for Elementary and Secondary Education to promulgate administrative regulations for the proper administration of KRS 157.200 to 157.280; and 157.224 and 157.230 require local school districts to establish and operate appropriate special education programs for residents of their districts. This regulation is necessary to mandate establishment of appropriate local district [To promulgate State Board of Education regulations for] programs for mentally handicapped children and [. This regulation is necessary] to assure uniformity in providing special education and related services to mentally handicapped children in conformance [and to conform] with the Education for All Handicapped Children Act, 20 U.S.C. 1400 et seq [Public Law 94-142].

Section 1. General Provisions. Local school boards of education shall operate programs for resident mentally handicapped pupils of school attendance age pursuant to KRS 157.200 to 157.290 [285], inclusive, and the criteria set forth [listed] in this regulation [section].

Section 2. Programs for educable mentally handicapped pupils shall be operated according to the following provisions:

(1) Eligibility criteria:

(a) An admissions and release committee shall determine that a child is educable mentally handicapped provided the following criteria are met:

1. The pupil [who] meets the applicable definition pursuant to KRS 157.200; and

2. The pupil obtains an intelligence quotient score between fifty (50) and seventy-five (75) on individual intelligence tests. Individual intelligence test scores shall not be the sole criterion for determination of placement, but shall be considered in conjunction with other evaluation information as set forth in subsection (3) of this section.

(b) Pupils who meet the above criteria shall be eligible for special education and related services.

(c) Pupils whose intelligence score is borderline may be eligible for special education and related services on a trial basis upon the recommendation of the appropriate admissions and release committee, with borderline scores being those [. "Borderline" shall be] one (1) standard error of measurement above seventy-five (75) or below fifty (50) IQ points.

(2) Admissions and release committee. As required and provided in 707 KAR 1:051, Section 3, a committee process shall be followed for the identification, evaluation, and placement of educable mentally handicapped children. The appropriate admissions and release committee shall assure that procedural safeguards as described in 707 KAR 1:051, Sections 9 and 10, and 707 KAR 1:060 shall be followed.

(3) Child evaluation. Appropriate child evaluation shall be assured by the appropriate admissions and release committee. Evaluation information shall be obtained pursuant to the requirements in 707 KAR 1:051, Section 4. The evaluation of pupils referred for identification and placement purposes shall consist of:

(a) The referring person's written account of the pupil's specific strengths and weaknesses in the academic and behavioral areas;

(b) A written account of a behavioral observation of the referred pupil in familiar surroundings (e.g. [i.e.], classroom, playground[, etc.]);

(c) Formal and informal educational evaluation data composed of individual [and/or group] standardized academic achievement tests and individual assessment of basic skills areas such as reading, math, and language;
(d) An assessment of adaptive behavior including a developmental history; [and]
(e) An individual intellectual assessment utilizing a recognized standardized measure; and [.]
(f) In cases where a visual, auditory or physical handicap or serious emotional disturbance is suspected to be a handicapping condition, a referral for appropriate assessment of qualified professional(s) shall be made.
(4) Individual education program (IEP). As required and provided in 707 KAR 1:051, Section 5, for each child identified, the appropriate admissions and release committee shall develop and assure the implementation and annual review of an individual education program.
(5) Placement. Pupil placement in a program for the educable mentally handicapped shall be determined by the appropriate admissions and release committee pursuant to procedures as described in 707 KAR 1:051, Section 6.
(6) Classroom plan. Classroom plans shall operate pursuant to procedures as described in 707 KAR 1:051, Section 1. Programs for educable mentally handicapped pupils may be established under one or more of the following classroom plans: special class, resource, and variation plan.
(7) Membership and age range.
(a) Classroom membership and age range in programs for educable mentally handicapped shall be:

Classroom Plan [(Units)]	Maximum Membership	Age Range
Special Class Plan	[10 to] 20	4 years
Resource Plan	[10 to] 20	6 years

(b) No more than ten (10) pupils, all within a four (4) year age span, shall [may] be in the resource room during any one (1) instructional period.
(c) Variations of the above shall be considered for approval upon submission of written request and justification to the Office of Education for Exceptional Children. Factors for consideration of approval in determining pupil to [/] teacher ratio and age range shall [will] include, but [are] not be limited to, the following:
1. Age and grade level of the pupils;
2. Physical condition of the pupils; and
3. Support personnel.

Section 3. Programs for trainable mentally handicapped pupils shall be operated according to the following provisions:
(1) Eligibility criteria.
(a) An admissions and release committee shall determine that a child is trainable mentally handicapped provided the following criteria are met:
1. The pupil meets the applicable definition pursuant to KRS 157.200; and
2. The pupil obtains an intelligence quotient score between thirty-five (35) and fifty (50) on individual intelligence tests. Individual intelligence test scores shall not be the sole criterion for determination of placement, but shall be considered in conjunction with other evaluation information as set forth in subsection (3) of this section.
(b) Pupils who meet the above criteria shall be eligible for special education and related services.
(2) Admissions and release committee. As required and provided in 707 KAR 1:051, Section 3, a committee process shall be followed for the identification, evaluation, and placement of trainable mentally handicapped children. The appropriate admissions and release committee shall assure that procedural safeguards as described in 707 KAR 1:051, Sections 9 and 10, and 707 KAR 1:060 shall be followed.
(3) Child evaluation. Appropriate child evaluation shall be assured by the appropriate admissions and release committee. Evaluation information shall be obtained pursuant to the requirements in 707 KAR 1:051, Section 4. The evaluation of pupils referred for identification and placement purposes shall consist of:
(a) The referring person's written account of the pupil's specific strengths and weaknesses in the academic and behavioral areas;
(b) A written account of a behavioral observation of the referred pupil in familiar surroundings (e.g., classroom, playground[, etc.]);
(c) An individual assessment of basic skills areas such as reading, math, language, motor, social, and self-help skills;
(d) An assessment of adaptive behavior including a developmental history; [and]
(e) An individual intellectual assessment utilizing a recognized standardized measure; and [.]
(f) In cases where a visual, auditory or physical handicap or serious emotional disturbance is suspected to be a handicapping condition, a referral for appropriate assessments by qualified professional(s) shall be made.
(4) Individual education program (IEP). As required and provided in 707 KAR 1:051, Section 5, for each child identified, the appropriate admissions and release committee shall develop and assure the implementation and annual review of an individual education program.
(5) Placement. Pupil placement in a program for the trainable mentally handicapped shall be determined by the appropriate admissions and release committee pursuant to procedures as described in 707 KAR 1:051, Section 6.
(6) Classroom plan. Classroom plans shall operate pursuant to procedures as described in 707 KAR 1:051, Section 1. Programs for trainable mentally handicapped pupils shall be established under the special class or variation plan.
(7) Membership and age range.
(a) Classroom membership and age range in programs for trainable mentally handicapped shall be:

Classroom Plan [(Units)]	Maximum Membership	Age Range
[Special] Class Plan	[5 to] 12	6 years

(b) Variations of the above shall be considered for approval upon submission of written request and justification to the Office of Education for Exceptional Children. Factors for consideration of approval in determining pupil to [/] teacher ratio and age range shall [will] include, but [are] not be limited to the

following:
1. Age and grade level of the pupils;
2. Physical condition of the pupils; and
3. Support personnel.

Section 4. Programs for severely and profoundly handicapped pupils shall be operated according to the following provisions:
(1) Eligibility criteria.
(a) An admissions and release committee shall determine that a child is severely and profoundly handicapped provided the following criteria are met:
1. There is evidence of primary disabilities that are cognitive (obtained intelligence quotient scores shall be below thirty-five (35)).
2. There may be evidence of behavioral, physical, and/or sensory handicaps.
(b) Pupil(s) who meet the above criteria shall be eligible for special education and related services.
(2) Admissions and release committee. As required and provided in 707 KAR 1:051, Section 3, a committee process shall be followed for the identification, evaluation, and placement of severely and profoundly handicapped children. The appropriate admissions and release committee shall assure that procedural safeguards as described in 707 KAR 1:051, Sections 9 and 10, and 707 KAR 1:060 shall be followed.
(3) Child evaluation. Appropriate child evaluation shall be assured by the appropriate admissions and release committee. Evaluation information shall be obtained pursuant to the requirements in 707 KAR 1:051, Section 4. The evaluation of pupils referred for identification and placement purposes shall consist of:
(a) The referring person's written account of the pupil's specific strengths and weaknesses;
(b) A written account of a behavioral observation of the referred pupil in familiar surroundings (e.g., classroom, home[, etc.]);
(c) An individual assessment of basic skills areas including language, motor, social, self-help and cognitive skills;
(d) An assessment of adaptive behavior including a developmental history; [and/or]
(e) An individual intellectual assessment utilizing a recognized standardized measure; and [.]
(f) In cases where sensory or physical deficits or behavioral disorders are suspected to exist, a referral for appropriate assessments by qualified professional(s) shall be made.
(4) Individual education program (IEP). As required and provided in 707 KAR 1:051, Section 5, for each child identified, the appropriate admissions and release committee shall develop and assure the implementation and annual review of an individual education program.
(5) Placement. Placement shall be in programs for the severely and profoundly handicapped, trainable mentally handicapped or multiple handicapped as determined by the appropriate admissions and release committee pursuant to procedures as described in 707 KAR 1:051, Section 6.
(6) Classroom plan. Classroom plans shall operate pursuant to procedures as described in 707 KAR 1:051, Section 1. Programs for severely and profoundly handicapped pupils shall be established under the special class or variation plan.
(7) Membership and age range.
(a) Classroom membership and age range in programs for severely and profoundly handicapped shall be:

Classroom Plan [(Units)] [Special] Class Plan	Maximum Membership [3 to] 8	Age Range 6 years

(b) Variations of the above shall be considered for approval upon submission of written request and justification to the Office of Education for Exceptional Children. Factors for consideration of approval in determining pupil to [/] teacher ratio and age range will include, but are not limited to, the following:
1. Age and functioning level of the pupils;
2. Physical condition of the pupils; and
3. Support personnel.

HENRY E. POGUE, IV, Chairman
APPROVED BY AGENCY: August 14, 1990
FILED WITH LRC: August 14, 1990 at 4 p.m.
PUBLIC HEARING: A public hearing on this regulation will be held on September 25, 1990 at 10 a.m. in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by September 20, 1990, five days prior to 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. The 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: Dr. Dan H. Branham, Secretary, State Board for Elementary and Secondary Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

CONTACT PERSON: J. Gary Bale, General Counsel, Office of Legal Services, Department of Education, 120 Capital Plaza Tower, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Linda F. Hargan
(1) Type and number of entities affected: 176 local school districts.
(a) Direct and indirect costs or savings to those affected: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A. No

alternative methods were available to insure that the regulations reflected the intent of the Kentucky Education Reform Act.

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments:

TIERING: Was tiering applied? No. The provisions of the Kentucky Education Reform Act mandate the changes set forth in these amendments for all local school districts.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 34 CFR 300.5, 300.400-403, 300.510, .512.

2. State compliance standards. 707 KAR 1:041-1:059, 707 KAR 1:070, 707 KAR 1:080.

3. Minimum or uniform standards contained in the federal mandate. 34 CFR 300.5 requires the state to identify handicapped children in the categories defined in the federal mandate. 300.400-403 requires the state education agency to insure that all students placed by public schools in private schools are provided an educational program which meet the state's standards, and 300.510, .512 impose the requirements of system of appealing due process hearing decisions.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? 707 KAR 1:041-1:059 establish eligibility requirements for identifying handicapped students in this state. 707 KAR 1:070 sets forth an approval process to insure that the mandates of 34 CFR 300.400 are met. 707 KAR 1:080 establishes a system for appealing due process hearing decisions. The changes made in these regulations are required under the Kentucky Education Reform Act, and should not impose stricter requirements than the federal mandates.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.

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

707 KAR 1:058. Programs for multiple handicapped children.

RELATES TO: KRS 156.031, 157.200, 157.220, 157.224, 157.230 [to 157.290]

STATUTORY AUTHORITY: KRS 157.220 [156.070, 156.160]

NECESSITY AND FUNCTION: KRS 156.031 requires that regulations relating to statutes amended by the 1990 Kentucky Education Reform Act be reviewed, amended if necessary, and resubmitted to the Legislative Research Commission prior to December 30, 1990; KRS 157.200 sets forth definitions with respect to special education and exceptional children's programs; KRS 157.220 requires the State Board for Elementary and Secondary Education to promulgate administrative regulations for the proper administration of KRS 157.200 to 157.280; and 157.224 and 157.230 require local school districts to establish and operate appropriate special education programs for residents of their districts. This regulation is necessary to mandate establishment of appropriate local district [To promulgate State Board of Education regulations for] programs for multiple handicapped children and [. This regulation is necessary] to assure uniformity in providing special education and related services to multiple handicapped children, in conformance [and to conform] with the Education for All Handicapped Children Act, 20 U.S.C. 1400 et seq [Public Law 94-142].

Section 1. General Provisions. Local school boards of education shall operate programs for resident multiple handicapped children of school attendance age pursuant to KRS 157.200 to 157.290 [285], inclusive, and the criteria set forth [listed] in this regulation [section].

Section 2. Eligibility Criteria. (1) An admissions and release committee shall determine that a child is multiple handicapped provided the following criteria are met:

(a) The pupil has a combination of two (2) or more impairments (such as mentally handicapped-blind, mentally handicapped-orthopedically impaired[, etc.]); and

(b) The combination produces such severe learning, developmental or behavioral problems that appropriate services cannot be provided in special education programs designed solely for children with one (1) impairment.

(2) Pupils who meet the above criteria shall be eligible for special education and related services.

Section 3. Admissions and Release Committee. As required and provided in 707 KAR 1:051, Section 3, a committee process shall be followed for the identification, evaluation, and placement of multiple handicapped children. The appropriate admissions and release committee shall assure that procedural safeguards as described in 707 KAR 1:051, Sections 9 and 10, and 707 KAR 1:060 shall be followed.

Section 4. Child Evaluation. Appropriate child evaluation shall be assured by the appropriate admissions and release committee. Evaluation information shall be obtained pursuant to the requirements in 707 KAR 1:051, Section 4. Evaluations shall include:

(1) A developmental and social history;

(2) A medical evaluation as appropriate;

(3) An individual intellectual assessment utilizing a recognized standardized measure;

(4) An individual educational assessment of basic skills (i.e., math, reading, language);

(5) Written behavioral observation; and

(6) Additional reports, information and assessments deemed necessary by the admissions and release committee for the appropriate placement of each child.

Section 5. Individual Education Program (IEP). As required and provided in 707 KAR 1:051, Section 5, for each child identified, the appropriate admissions and release committee shall develop and assure the implementation and annual review of an individual education program.

Section 6. Placement. Placement in a program for multiple handicapped children shall be determined by the appropriate admissions and release committee pursuant to procedures described in 707 KAR 1:051, Section 6.

Section 7. Classroom Plan. Programs for multiple handicapped pupils shall be established under the resource, special class or variation plan as described in 707 KAR 1:051, Section 1.

Section 8. Membership and Age Range. (1) Classroom membership and age range in programs for multiple handicapped shall be:

Classroom Plan [(Units)]	Maximum Membership	Age Range
Special Class Plan	[5 to] 10	6 years
Resource Plan	[5 to] 10	6 years

(2) No more than seven (7) pupils shall [may] be in the resource room during any one (1) instructional period.

(3) Variations of the above shall be considered for approval upon submission of written request and justification to the Office of Education for Exceptional Children. Factors for consideration of approval in determining pupil to [/] teacher ratio and age range shall [will] include, but [are] not be limited to, the following:

(a) Age and grade level of the pupils;

(b) Physical condition of the pupils; and

(c) Support personnel.

HENRY E. POGUE, IV, Chairman

APPROVED BY AGENCY: August 14, 1990

FILED WITH LRC: August 14, 1990 at 4 p.m.

PUBLIC HEARING: A public hearing on this regulation will be held on September 25, 1990 at 10 a.m. in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by September 20, 1990, five days prior to 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. The 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: Dr. Dan H. Branham, Secretary, State Board for Elementary and Secondary Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

CONTACT PERSON: J. Gary Bale, General Counsel, Office of Legal Services, Department of Education, 120 Capital Plaza Tower, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Linda F. Hargan

(1) Type and number of entities affected: 176 local school districts.

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

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A. No alternative methods were available to insure that the regulations reflected the intent of the Kentucky Education Reform Act.

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments:

TIERING: Was tiering applied? No. The provisions of the Kentucky Education Reform Act mandate the changes set forth in these amendments for all local school districts.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 34 CFR 300.5, 300.400-403, 300.510, .512.

2. State compliance standards. 707 KAR 1:041-1:059, 707 KAR 1:070, 707 KAR 1:080.

3. Minimum or uniform standards contained in the federal mandate. 34 CFR 300.5 requires the state to identify handicapped children in the categories defined in the federal mandate. 300.400-403 requires the state education agency to insure that all students placed by public schools in private schools are provided an educational program which meet the state's standards, and 300.510, .512 impose the requirements of system of appealing due process hearing decisions.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? 707 KAR 1:041-1:059 establish eligibility requirements for identifying handicapped students in this state. 707 KAR 1:070 sets forth an approval process to insure that the mandates of 34 CFR 300.400 are met. 707 KAR 1:080 establishes a system for appealing due process hearing decisions. The changes made in these regulations are required under the Kentucky Education Reform Act, and should not impose stricter requirements than the federal mandates.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.

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

707 KAR 1:059. Programs for visually handicapped children.

RELATES TO: KRS 156.031, 157.200, 157.200, 157.224, 157.230 [to 157.285]
STATUTORY AUTHORITY: KRS 157.220 [156.070, 156.160]
NECESSITY AND FUNCTION: KRS 156.031 requires that regulations relating to statutes amended by the 1990 Kentucky Education Reform Act be reviewed, amended if necessary, and resubmitted to the Legislative Research Commission prior to December 30, 1990; KRS 157.200 sets forth definitions with respect to special education and exceptional children's programs; KRS 157.220 requires the State Board for Elementary and Secondary Education to promulgate administrative regulations for the proper administration of KRS 157.200 to 157.280; and 157.224 and 157.230 require local school districts to establish and operate appropriate special education programs for residents of their districts. This regulation is necessary to mandate establishment of appropriate local district [To promulgate State Board of Education regulations for] programs for visually handicapped children and [. This regulation is necessary] to assure uniformity in providing special education and related services to visually handicapped children, in conformance [and to conform] with the Education for All Handicapped Children Act, 20 U.S.C. 1400 et seq. [Public Law 94-142.]

Section 1. General Provisions. Local school boards of education shall operate programs for resident visually handicapped children of school attendance age pursuant to KRS 157.200 to 157.290 [157.285], inclusive, and the criteria set forth in this regulation [section].

Section 2. Eligibility Criteria. (1) An admissions and release committee shall determine that a child is visually impaired provided the following criteria are met:
(a) The child has a visual acuity of 20/70 or less in the better eye after correction; [and/]or
(b) The child has a visual handicap(s) which, even with correction, adversely affect the child's educational performance. The term includes both partially seeing and blind children.
(2) A pupil who meets the above criteria shall be eligible for special education and related services.

Section 3. Admissions and Release Committee. As required and provided in 707 KAR 1:051, Section 3, a committee process shall be followed for the identification, evaluation, and placement of visually handicapped children. The appropriate admissions and release committee shall assure that procedural safeguards as described in 707 KAR 1:051, Sections 9 and 10, and 707 KAR 1:060 shall be followed.

Section 4. Child Evaluation. (1) Appropriate child evaluation shall be assured by the appropriate admissions and release committee. Evaluation information shall be obtained pursuant to the requirements in 707 KAR 1:051, Section 4. The evaluation for identification and placement shall include:
(a) An eye examination report, completed and signed by a licensed eye specialist;
(b) Developmental and social history;
(c) An individual educational assessment of basic skills, (i.e., math, reading, language);
(d) A written behavior observation; and
(e) Any additional reports, information, and assessments that the admissions and release committee deems necessary for the placement of a child in an appropriate program.
(2) In cases in which retardation is suspected to be a handicapping condition, a referral for appropriate assessment by a qualified professional shall be made.

Section 5. Individual Education Program (IEP). As required and provided in 707 KAR 1:051, Section 5, for each child identified, the appropriate admissions and release committee shall develop and assure the implementation and annual review of an individual education program.

Section 6. Placement. Placement in a program for visually handicapped shall be determined by the appropriate admissions and release committee pursuant to procedures as described in 707 KAR 1:051, Section 6.

Section 7. Classroom Plan. Programs for visually handicapped pupils may be established under one or more of the following plans as described in 707 KAR 1:051, Section 1: special class, resource, and variation plan.

Section 8. Membership and Age Range. (1) Classroom membership and age range in programs for visually handicapped shall be:

(Itinerant Teacher)	Maximum Membership	Age Range
Special Class Plan	[5 to] 10	6 years
Resource Plan	[5 to] 10	6 years
Resource Plan (Itinerant Teacher)	[5 to] 12	Unlimited

(2) No more than seven (7) pupils, all within a four (4) year age span, shall [may] be in the resource room during any one (1) instructional period.
(3) Variations of the above shall be considered for approval upon submission of written request and justification to the Office of Education for Exceptional Children. Factors for consideration of approval in determining pupil to [/]teacher ratio and age range shall [will] include, but [are] not be limited to, the following:
(a) Age and grade level of the pupils;
(b) Physical condition of the pupils; and
(c) Support personnel.

HENRY E. POGUE, IV, Chairman
APPROVED BY AGENCY: August 14, 1990
FILED WITH LRC: August 14, 1990 at 4 p.m.
PUBLIC HEARING: A public hearing on this regulation will be held on September 25, 1990 at 10 a.m. in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by September 20, 1990, five days prior to 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. The 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: Dr. Dan H. Branham, Secretary, State Board for Elementary and Secondary Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

CONTACT PERSON: J. Gary Bale, General Counsel, Office of Legal Services, Department of Education, 120 Capital Plaza Tower, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Linda F. Hargan
(1) Type and number of entities affected: 176 local school districts.
(a) Direct and indirect costs or savings to those affected: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A. No alternative methods were available to insure that the regulations reflected the intent of the Kentucky Education Reform Act.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. The provisions of the Kentucky Education Reform Act mandate the changes set forth in these amendments for all local school districts.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 34 CFR 300.5, 300.400-403, 300.510, .512.
2. State compliance standards. 707 KAR 1:041-1:059, 707 KAR 1:070, 707 KAR 1:080.
3. Minimum or uniform standards contained in the federal mandate. 34 CFR 300.5 requires the state to identify handicapped children in the categories defined in the federal mandate. 300.400-403 requires the state education agency to insure that all students placed by public schools in private schools are provided an educational program which meet the state's standards, and 300.510, .512 impose the requirements of system of appealing due process hearing decisions.
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? 707 KAR 1:041-1:059 establish eligibility requirements for identifying handicapped students in this state. 707 KAR 1:070 sets forth an approval process to insure that the mandates of 34 CFR 300.400 are met. 707 KAR 1:080 establishes a system for appealing due process hearing decisions. The changes made in these regulations are required under the Kentucky Education Reform Act, and should not impose stricter requirements than the federal mandates.
5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.

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

707 KAR 1:070. Nonpublic school program approval.

RELATES TO: KRS 156.031, 157.280, 20 U.S.C. 1400 et seq. [157.200 to 157.290]
STATUTORY AUTHORITY: KRS 157.220, [156.070, 156.160]
NECESSITY AND FUNCTION: KRS 156.031 requires that regulations relating to statutes amended by the 1990 Kentucky Education Reform Act be reviewed, amended if necessary, and resubmitted to the Legislative Research Commission prior to December 30, 1990; and [The Consent Agreement in Kentucky Association for Retarded Children, et al, v. Kentucky State Department of Education, et al, Civil Action No. 435, U.S. District Court, Eastern District of Kentucky, specifies that Regulations and Guidelines be established for the identification and placement of exceptional children in local school districts. KRS 157.224 specifies the Commonwealth of Kentucky is committed to providing a comprehensive educational program for its exceptional children. This commitment is consistent with Section 612(6) of Public Law 94-142 which places with the state education agency the responsibility for general supervision of all educational programs for exceptional children in the state including those provided by public agencies and by private agencies with which public agencies contract. This responsibility includes insuring that these programs meet federal requirements and state standards.] KRS 157.280 specifies if a number of children of compulsory school age in one (1) classification of exceptionality in a district is not sufficient to justify a special education program for that exceptionality in that district, or if a school district does not provide a special education program for that exceptionality the board shall provide a program by contract with another county or independent district or private organization that maintains a special education program approved for that exceptionality by the State Board for Elementary

and Secondary [of] Education[, the amount not to exceed the amount designated by the state department of education for a child of that particular exceptionality]. The Education for All Handicapped Children Act, 20 U.S.C. 1400 et seq., [Public Law 94-142, Section 613,] specifies that in all such instances, the state educational agency shall determine whether such schools and school facilities meet standards that apply to state and local educational agencies and that children so served have all the rights they would have if served by such agencies. This [Kentucky administrative] regulation provides policies and procedures relative to approval of and placement with nonpublic school programs [the fulfillment of the Consent Agreement, KRS 157.280, 157.305, 157.224 and Public Law 94-142, Sections 612(6) and 613(a)(4)(a)(ii)].

Section 1. Approval of Nonpublic School Programs for Exceptional Children. Nonpublic school agencies and [/]organizations providing educational programs for exceptional children and youth shall apply to the State Board for Elementary and Secondary [of] Education for approval in order to insure that they meet state education agency standards. Nonpublic school educational programs shall meet the requirements of appropriate section(s) of Kentucky Revised Statutes and Kentucky administrative regulations. These programs include:

(1) Educational programs for exceptional children operated by public agencies other than local school districts; and

(2) Educational programs for exceptional children operated by private organizations which wish to enter into contract(s) with local school districts.

Section 2. Referral and Placement of Exceptional Children in Nonpublic School Programs. (1) Programs operated by public agencies other than local school districts. For those exceptional children in programs operated by public agencies other than local school districts, referral and placement shall be consistent with policies and procedures established by or for the particular agency. Exceptional children placed in such programs shall be provided an educational program which insures:

(a) The provision of special education and related services in conformance with the individual education program (IEP) developed for each child;

(b) An educational program at no cost to the parents;

(c) That services meet the standards that apply to state and local educational agencies; and

(d) That all children ages three (3) through twenty-one (21) who are provided an educational program are afforded all the rights of an exceptional child who is served in a local school district.

(2) Programs operated by private organizations. Within the purview of KRS 157.280, programs for exceptional children maintained by a private organization means a program(s) for exceptional children in Kentucky which is provided by a private corporation, association or other organization. This does not include a program in Kentucky which is directly provided by a state agency or a local board of education, administered by a public employee(s) or by a board having accountability to a state agency. Referral and placement of exceptional children in approved private organization educational programs by local school districts shall be provided, consistent with 707 KAR 1:051. The educational program provided shall:

(a) Be in conformance with the individual education program developed for each child,

(b) Be at no cost to the parents,

(c) Insure that services provided meet standards that apply to state and local educational agencies; and

(d) Afford all children (ages three (3) through twenty-one (21)) who are served all the rights of an exceptional child who is served in a local school district.

HENRY E. POGUE, IV, Chairman

APPROVED BY AGENCY: August 14, 1990

FILED WITH LRC: August 14, 1990 at 4 p.m.

PUBLIC HEARING: A public hearing on this regulation will be held on September 25, 1990 at 10 a.m. in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by September 20, 1990, five days prior to 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. The 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: Dr. Dan H. Branham, Secretary, State Board for Elementary and Secondary Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

CONTACT PERSON: J. Gary Bale, General Counsel, Office of Legal Services, Department of Education, 120 Capital Plaza Tower, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Linda F. Hargan

(1) Type and number of entities affected: 176 local school districts.

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

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

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

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

alternative methods were available to insure that the regulations reflected the intent of the Kentucky Education Reform Act.

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments:

TIERING: Was tiering applied? No. The provisions of the Kentucky Education Reform Act mandate the changes set forth in these amendments for all local school districts.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 34 CFR 300.5, 300.400-403, 300.510, .512.

2. State compliance standards. 707 KAR 1:041-1:059, 707 KAR 1:070, 707 KAR 1:080.

3. Minimum or uniform standards contained in the federal mandate. 34 CFR 300.5 requires the state to identify handicapped children in the categories defined in the federal mandate. 300.400-403 requires the state education agency to insure that all students placed by public schools in private schools are provided an educational program which meet the state's standards, and 300.510, .512 impose the requirements of system of appealing due process hearing decisions.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? 707 KAR 1:041-1:059 establish eligibility requirements for identifying handicapped students in this state. 707 KAR 1:070 sets forth an approval process to insure that the mandates of 34 CFR 300.400 are met. 707 KAR 1:080 establishes a system for appealing due process hearing decisions. The changes made in these regulations are required under the Kentucky Education Reform Act, and should not impose stricter requirements than the federal mandates.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.

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

707 KAR 1:080. Appeals board.

RELATES TO: KRS 156.031, 156.035, 157.200 to 157.290, 20 U.S.C. 1415

STATUTORY AUTHORITY: KRS 156.035, 157.220 [156.070, 157.221]

NECESSITY AND FUNCTION: KRS 156.031 requires that regulations relating to statutes amended by the 1990 Kentucky Education Reform Act be reviewed, amended if necessary, and resubmitted to the Legislative Research Commission prior to December 30, 1990; KRS 156.035 authorizes the State Board for Elementary and Secondary [of] Education to implement the provisions of any act of Congress appropriating apportioning funds to the state; [and] KRS 157.200 to 157.290 establishes the state's statutory framework for special education programs; and 20 U.S.C. 1415 requires procedural safeguards to be incorporated in a state's special education program as a condition of federal funding. This regulation establishes the Exceptional Children Appeals Board to review initial due process hearing decisions by state-appointed hearing officers [local education agencies], in compliance with 20 U.S.C. § 1415(c) [and current federal interpretation thereof and in compliance with the consent agreement settling Kentucky Association for Retarded Children, et al., v. Kentucky State Board of Education, et al., Civil Action No. 435, U.S. District Court, Eastern District of Kentucky].

Section 1. There is hereby established for the Department of Education the Exceptional Children Appeals Board consisting, for each appeal filed, of three (3) members of the department's pool of due process hearing officers. The chief state school officer [Superintendent of Public Instruction] shall appoint, for each appeal filed, three (3) of such persons to serve as members of said board and shall designate one (1) of them as chairman. Such members shall not be employees of a public agency which is involved in the education or care of the child, or an employee of the Department of Education and shall not appear to have a vested interest in the outcome of the appeal.

Section 2. Any person who is a party to the hearing at the local school system level in a matter involving the identification, evaluation, or placement of an exceptional child as provided in 707 KAR 1:051 and 707 KAR 1:060, and who is aggrieved by the order on such hearing, may appeal such order in writing by certified mail to the Exceptional Children Appeals Board within thirty (30) calendar days of the entry of such order. This appeal shall also be submitted to the opposing party who shall [will] then have twenty-one (21) calendar days in which to respond in writing to the Exceptional Children Appeals Board. The board may also hear such a matter upon a showing that no hearing was provided at the local level.

Section 3. The chairman of the Exceptional Children Appeals Board shall set the matter for the hearing within ten (10) calendar days after receipt of the written appeal unless the parties to the appeal agree to a longer period of time.

Section 4. The Exceptional Children Appeals Board shall determine the case upon the record established at the hearing at the local level. It may allow the introduction of additional testimony, documents and other evidence, including oral arguments upon a showing of good cause. The board shall not be bound by the formal rules of evidence.

Section 5. The Exceptional Children Appeals Board shall make findings of fact, conclusions of law, and a decision within thirty (30) days of receipt of the appeal of a due process hearing decision.

HENRY E. POGUE, IV, Chairman
APPROVED BY AGENCY: August 14, 1990
FILED WITH LRC: August 14, 1990 at 4 p.m.
PUBLIC HEARING: A public hearing on this

regulation will be held on September 25, 1990 at 10 a.m. in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by September 20, 1990, five days prior to 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. The 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: Dr. Dan H. Branham, Secretary, State Board for Elementary and Secondary Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

CONTACT PERSON: J. Gary Bale, General Counsel, Office of Legal Services, Department of Education, 120 Capital Plaza Tower, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Linda F. Hargan
(1) Type and number of entities affected: 176 local school districts.
(a) Direct and indirect costs or savings to those affected: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A. No alternative methods were available to insure that the regulations reflected the intent of the Kentucky Education Reform Act.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. The provisions of the Kentucky Education Reform Act mandate the changes set forth in these amendments for all local school districts.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 34 CFR 300.5, 300.400-403, 300.510, .512.
2. State compliance standards. 707 KAR 1:041-1:059, 707 KAR 1:070, 707 KAR 1:080.
3. Minimum or uniform standards contained in the federal mandate. 34 CFR 300.5 requires the state to identify handicapped children in the categories defined in the federal mandate. 300.400-403 requires the state education agency to insure that all students placed by public schools in private schools are provided an educational program which meet the state's standards, and 300.510, .512 impose the requirements of system of appealing due process hearing decisions.
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? 707 KAR 1:041-1:059 establish eligibility requirements for identifying handicapped students in this state. 707 KAR 1:070 sets forth an approval process to insure that the mandates of 34 CFR 300.400 are met. 707 KAR 1:080 establishes a system for appealing due process hearing decisions. The changes made in these regulations are required under the Kentucky Education Reform Act, and should not impose stricter requirements than the federal mandates.
5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.

CABINET FOR HUMAN RESOURCES
Department for Health Services
(Proposed Amendment)

902 KAR 100:058. Specific licenses to manufacture, assemble, repair, or distribute products.

RELATES TO: KRS 211.842 to 211.852, 211.990(4)
STATUTORY AUTHORITY: KRS 194.050, 211.090, 211.844
NECESSITY AND FUNCTION: The Cabinet for Human Resources is empowered by KRS 211.844 to regulate the possession or use of any source of ionizing or electronic product radiation and the handling and disposal of radioactive waste. The purpose of this regulation is to prescribe requirements for the issuance of specific licenses to persons who manufacture, assemble, repair, or distribute commodities, products, or devices which contain radioactive material.

Section 1. Applicability. The requirements in this regulation apply to all licensees who manufacture, assemble, repair, or distribute commodities, products, or devices.

Section 2. Licensing the Introduction of Radioactive Material into Products in Exempt Concentrations. In addition to the requirements set forth in 902 KAR 100:040, Section 5, a specific license authorizing the introduction of radioactive material into a product or material owned by or in the possession of the licensee or another to be transferred to persons exempt under 902 KAR 100:045, Section 3(1)(a) shall be issued if:
(1) The applicant submits a description of the product or material into which the radioactive material will be introduced, intended use of the radioactive material and the product into which it is introduced, method of introduction, initial concentration of the radioactive

material in the product or material, control methods to assure that no more than the specified concentration is introduced into the product or material, estimated time interval between introduction and transfer of the product or material and estimated concentrations of the radioactive material in the product or material at the time of transfer; and

(2) The applicant provides reasonable assurance that the concentrations of the radioactive material at the time of transfer will not exceed the concentrations in 902 KAR 100:085, relating to concentrations of certain radionuclides, that reconcentration of the radioactive material in concentrations exceeding those in 902 KAR 100:085 is not likely, that use of lower concentrations is not feasible, and that the product or material is not likely to be incorporated in any food, beverage, cosmetic, drug or other commodity or product designed for ingestion or inhalation by, or application to, a human being.

(3) Each person licensed under this regulation shall file an annual report with the cabinet which shall identify the type and quantity of each product or material into which radioactive material has been introduced during the reporting period; name and address of the person who owned or possessed the product or material, into which radioactive material has been introduced, at the time of introduction; the type and quantity of radionuclide introduced into each such product or material; and the initial concentrations of the radionuclide in the product or material at the time of transfer of the radioactive material by the licensee. If no transfers of radioactive material have been made pursuant to this regulation during the reporting period, the report shall so indicate. The report shall cover the year ending June 30, and shall be filed within thirty (30) days thereafter.

Section 3. Licensing the Manufacture and Distribution of Devices to Persons Generally Licensed under 902 KAR 100:050. An application for a specific license to distribute certain devices containing radioactive material, excluding special nuclear material, to persons generally licensed shall be issued only if:

(1) The applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control, labels, proposed uses, installation, servicing, leak testing, operating and safety instructions and potential hazards of the device to provide reasonable assurance that:

(a) Under accident conditions such as fire and explosion associated with handling, storage, and use of the device, it is unlikely that any person would receive an external radiation dose or dose commitment in excess of the following organ doses:

1. Whole body; head and trunk; active blood-forming organs; gonads; or lens of eye - 15 rems

2. Hands and forearms; feet and ankles; localized areas of skin averaged over areas no larger than one (1) square centimeter - 200 rems

3. Other organs - 50 rems;

(b) Under ordinary conditions of handling, storage, and use of the device, the radioactive material contained in the device will not be released or inadvertently removed from the device, and it is unlikely that any person will receive in any period of one (1) calendar quarter a dose in excess of ten (10) percent of the limits specified in 902 KAR 100:020, Section 2;

(c) The device can be safely operated by individuals not having training in radiological protection.

(2) Each device bears a durable, legible, clearly visible label or labels approved by the cabinet, which contain in a clearly identified and separate statement:

(a) Instructions and precautions necessary to assure safe installation, operation, and servicing of the device; documents such as operating and service manuals may be identified in the label and used to provide this information;

(b) The requirement, or lack of requirement, for leak testing, or for testing any "on-off" mechanism and indicator, including the maximum time interval for such testing, and the identification of radioactive material by isotope, quantity of radioactivity, and date of determination of the quantity; and

(c) The information called for in the following statement, in the same or substantially similar form:

"The receipt, possession, use, and transfer of this device, Model _____, Serial No. _____, are subject to a general license or the equivalent and the regulations of the U.S. Nuclear Regulatory Commission or an Agreement State. This label shall be maintained on the device in a legible condition. Removal of this label is prohibited.

CAUTION - RADIOACTIVE MATERIAL

_____

Name of manufacturer or distributor"

The model, serial number, and name of the manufacturer or distributor may be omitted from this label provided the information is elsewhere specified in labeling affixed to the device.

(3) In the event the applicant desires that the device be required to be tested for proper operation of the "on-off" mechanism and indicator, if any, or for leakage of radioactive material, subsequent to the initial tests required by these regulations at intervals longer than six (6) months but not exceeding three (3) years, the applicant shall include in the application sufficient information to demonstrate that such longer interval is justified by performance characteristics of the device or similar devices, and by design features which have a significant bearing on the probability or consequences of leakage of radioactive material from the device or failure of the "on-off" mechanism and indicator. In determining the acceptable interval for the test for leakage of radioactive material, the cabinet will consider information on particulars which includes, but is not limited to:

(a) Primary containment or source capsule;

(b) Protection of primary containment;

(c) Method of sealing containment;

(d) Containment construction materials;

(e) Form of contained radioactive material;

(f) Maximum temperature withstood during prototype tests;

(g) Maximum pressure withstood during prototype tests;

(h) Maximum quantity of contained radioactive material;

(i) Radiotoxicity of contained radioactive material; and

(j) Operating experience with identical devices or similarly designed and constructed devices.

(4) In the event the applicant desires that the general licensee under 902 KAR 100:050, Section 3, or under equivalent regulations of the U.S. Nuclear Regulatory Commission or an Agreement State be authorized to install the device, collect the sample to be analyzed by a specific licensee for leakage of radioactive material, service the device, test the "on-off" mechanism and indicator, or remove the device from installation, the applicant shall include in the application written instructions to be followed by the general licensee, estimated calendar quarter doses associated with such activity or activities, and bases for such estimates. The submitted information shall demonstrate that performance of such activity or activities by an individual untrained in radiological protection, in addition to other handling, storage, and use of devices under the general license, is unlikely to cause that individual to receive a calendar quarter dose in excess of ten (10) percent of the limits specified in 902 KAR 100:020, Section 2.

(5) Each person licensed under this regulation to distribute devices to generally licensed persons shall:

(a) Furnish a copy of the general license contained in 902 KAR 100:050, Section 3, to each person the licensee, directly or through an intermediate person, transfers radioactive material in a device for use pursuant to the general license;

(b) Furnish a copy of the general license contained in the U.S. Nuclear Regulatory Commission's or Agreement State's regulation equivalent, or alternatively, furnish a copy of the general license to each person the licensee directly or through an intermediate person transfers radioactive material in a device for use pursuant to the general license of the U.S. Nuclear Regulatory Commission or the Agreement State. If a copy of the general license is furnished to such a person, it shall be accompanied by a note explaining that the use of the device is regulated by the U.S. Nuclear Regulatory Commission or Agreement State under requirements substantially the same as those in 902 KAR 100:050, Section 3;

(c) Report to the cabinet all transfers of such devices to persons for use under the general license. Such report shall identify each general licensee by name and address, an individual by name and/or position who may constitute a point of contact between the cabinet and the general licensee, the type and model number of device transferred, and the quantity and type of radioactive material contained in the device. If one (1) or more intermediate persons will temporarily possess the device at the intended place of use prior to its possession by the user, the report shall include identification of each intermediate person by name, address, contact, and relationship to the intended user. If no transfers have been made to persons generally licensed during the reporting period, the report shall so indicate. The report shall cover each calendar quarter and shall be filed within thirty (30) days thereafter;

(d) Furnish reports to other agencies:

1. Report to the U.S. Nuclear Regulatory Commission all transfers of such devices to persons for use under the U.S. Nuclear Regulatory Commission general license in Section 31.5 of 10 CFR Part 31; or

2. Report to the responsible state agency all transfers of devices manufactured and distributed for use under a general license in that state's regulations equivalent to 902 KAR 100:050, Section 3.

3. Such reports shall identify each general licensee by name and address, an individual by name and/or position who may constitute a point of contact between the agency and the general licensee, the type and model of the device transferred, and the quantity and type of radioactive material contained in the device. If one (1) or more intermediate persons will temporarily possess the device at the intended place of use prior to its possession by the user, the report shall include identification of each intermediate person by name, address, contact, and relationship to the intended user. The report shall be submitted within thirty (30) days after the end of each calendar quarter in which such a device is transferred to the generally licensed person;

4. If no transfers have been made to U.S. Nuclear Regulatory Commission licensees during the reporting period, this information shall be reported to the U.S. Nuclear Regulatory Commission;

5. If no transfers have been made to general licensees within a particular state during the reporting period, this information shall be reported to the responsible state agency upon request of that agency; and

(e) Keep records showing the name, address, and the point of contact for each general licensee to which the licensee directly or through an intermediate person transfers radioactive material in devices for use pursuant to the general license or equivalent regulations of the U.S. Nuclear Regulatory Commission or an Agreement State. The records shall show the date of each transfer, the radionuclide and the quantity of radioactivity in each device transferred, the identity of any intermediate person, and compliance with the report requirements.

Section 4. Special Requirements for the Manufacture, Assembly, or Repair of Luminous Safety Devices for use in Aircraft. An application for a specific license to manufacture, assemble, or repair luminous safety devices containing tritium or promethium-147 for use in aircraft, for distribution to persons generally licensed under 902 KAR 100:050 will be approved if:

(1) The applicant satisfies the general requirements specified in 902 KAR 100:040; and

(2) The applicant satisfies the requirements of U.S. Nuclear Regulatory Commission 10 CFR Part 32, Sections 32.53, 32.54, 32.55, 32.56, and 32.101, or their equivalent.

Section 5. Special Requirements for License to Manufacture Calibration Sources Containing Americium-241, Plutonium or Radium-226 for Distribution to Persons Generally Licensed under 902 KAR 100:050. An application for a specific license to manufacture calibration and reference sources containing americium-241, plutonium or radium-226 to persons generally licensed under

902 KAR 100:050 will be approved if:

(1) The applicant satisfies the general requirements of 902 KAR 100:040; and

(2) The applicant satisfies the requirements of U.S. Nuclear Regulatory Commission 10 CFR Part 32, Sections 32.57, 32.58, 32.59, and 32.102 and 10 CFR Part 70, Section 70.29, or their equivalent.

Section 6. Manufacture and Distribution of Radioactive Material for Medical use under a General License. An application for a specific license to distribute radioactive material for use by physicians under the general license of these regulations shall be approved if:

(1) The applicant satisfies the general requirements specified in 902 KAR 100:040;

(2) The applicant submits evidence that the radioactive material is to be manufactured, labeled and packaged in accordance with a new drug application which the Commissioner of Food and Drug Administration has approved, or in accordance with a license for a biologic product issued by the Secretary, U.S. Department of Health and Human Services; and

(3) The following statement, or a substantially similar statement, appears on the label affixed to the container or appears in the leaflet or brochure which accompanies the package:

"This radioactive drug may be received, possessed and used only by physicians licensed to dispense drugs in the practice of medicine. Its receipt, possession, use and transfer are subject to the regulations and a general license or the equivalent of the United States Nuclear Regulatory Commission or of an Agreement State.

_____
(Name of Manufacturer)"

Section 7. Manufacture and Distribution of Radioactive Material for Certain In Vitro Clinical or Laboratory Testing under a General License. Application for a specific license to manufacture or distribute radioactive material for use under the general license of these regulations will be approved if:

(1) The applicant satisfies the general requirements specified in 902 KAR 100:040;

(2) The radioactive material is to be prepared for distribution in prepackaged units of:

(a) Iodine-125 in units not exceeding ten (10) microcuries each.

(b) Iodine-131 in units not exceeding ten (10) microcuries each.

(c) Carbon-14 in units not exceeding ten (10) microcuries each.

(d) Hydrogen-3 (tritium) in units not exceeding fifty (50) microcuries each.

(e) Iron-59 in units not exceeding twenty (20) microcuries each.

(f) Selenium-75 in units not exceeding ten (10) microcuries each.

(g) Mock iodine-125 in units not exceeding 0.05 microcurie of iodine-129 and 0.005 microcurie of americium-241 each.

(h) Cobalt-57 in units not exceeding fifty (50) microcuries each.

(3) Each prepackaged unit bears a durable, clearly visible label:

(a) Identifying the radioactive contents as to chemical form and radionuclide, and indicating that the amount of radioactivity does not exceed ten (10) microcuries of iodine-131, iodine-125, selenium-75, cobalt-57, or carbon-14; fifty (50) microcuries of hydrogen-3 (tritium); twenty (20) microcuries of iron-59; or mock iodine-125 in units not exceeding 0.05 microcurie of iodine-129 and 0.005 microcurie of americium-241 each; and

(b) Displaying the radiation caution symbol and the words, "Caution, Radioactive Material," and "Not for Internal or External Use in Humans or Animals;"

(4) The following statement, or a substantially similar statement which contains the information called for in the following statement, appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure which accompanies the package:

"This radioactive material may be received, acquired, possessed, and used only by physicians, veterinarians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use, and transfer are subject to the regulations and a general license or the equivalent of the United States Nuclear Commission or of an Agreement State.

_____
(Name of Manufacturer)"; and

(5) The label affixed to the unit, or the leaflet or brochure which accompanies the package, contains adequate information as to the precautions to be observed in handling and storing such radioactive material. In the case of the mock iodine-125 reference or calibration source, the information accompanying the source shall also contain directions to the licensee regarding the waste disposal requirements set out in these regulations.

Section 8. Licensing the Manufacture and Distribution of Ice Detection Devices. An application for a specific license to manufacture and distribute ice detection devices to persons generally licensed will be approved if:

(1) The applicant satisfies the general requirements of 902 KAR 100:040; and

(2) The criteria of U.S. Nuclear Regulatory Commission 10 CFR Part 32, Sections 32.61, 32.62, and 32.103 are met.

Section 9. Manufacture and Distribution of Radiopharmaceuticals Containing Radioactive Material for Medical Use Under Specific [Group] Licenses. An application for a specific license to manufacture and distribute radiopharmaceuticals containing radioactive material for use by persons licensed for the uses listed in 902 KAR 100:073, Sections 29, 31 and 35 [Group I, Group II, Group IV, or Group V in 902 KAR 100:075] will be approved if:

(1) The applicant satisfies the general requirements specified in 902 KAR 100:040;

(2) The applicant submits evidence that:

(a) The radiopharmaceutical containing radioactive material will be manufactured, labeled, and packaged in accordance with the Federal Food, Drug and Cosmetic Act or the Public Health Service Act, such as a new drug application (NDA) approved by the Food and Drug Administration (FDA), or a "Notice of Claimed Investigational Exemption for a New Drug" (IND) that has been accepted by the FDA; or

(b) The manufacture and distribution of the

radiopharmaceutical containing radioactive material is not subject to the Federal Food, Drug and Cosmetic Act and the Public Health Service Act;

(3) The applicant submits information on the radionuclide, chemical and physical form, packaging including maximum activity per package, and shielding provided by the packaging of the radioactive material which is appropriate for safe handling and storage of radiopharmaceuticals by group licensees; and

(4)(a) The label affixed to each package of the radiopharmaceutical contains information on the radionuclide, quantity, and date of assay and the label affixed to each package, or the leaflet or brochure which accompanies each package, contains a statement that the radiopharmaceutical is licensed by the cabinet for distribution to persons licensed pursuant to 902 KAR 100:073 for uses listed in 902 KAR 100:073, Sections 29, 31 and 35 [902 KAR 100:051 and Group I, Group II, Group IV, and Group V of 902 KAR 100:075, as appropriate], or under equivalent licenses of the U.S. Nuclear Regulatory Commission or an Agreement State.

(b) The labels, leaflets, or brochures required by this subsection are in addition to the labeling required by the Food and Drug Administration (FDA) and they may be separate from or, with the approval of FDA, may be combined with the labeling required by FDA.

Section 10. Manufacture and Distribution of Generators or Reagent Kits for Preparation of Radiopharmaceuticals Containing Radioactive Material. An application for a specific license to manufacture and distribute generators or reagent kits containing radioactive material for preparation of radiopharmaceuticals by persons licensed pursuant to 902 KAR 100:073 [051] for the uses listed in 902 KAR 100:073, Section 31 [Group III of 902 KAR 100:075] will be approved if:

(1) The applicant satisfies the general requirements specified in 902 KAR 100:040;

(2) The applicant submits evidence that:

(a) The generator or reagent kit is to be manufactured, labeled and packaged in accordance with the Federal Food, Drug and Cosmetic Act or the Public Health Service Act, such as a new drug application (NDA) approved by the Food and Drug Administration (FDA), or a "Notice of Claimed Investigational Exemption for a New Drug" (IND) that has been accepted by the FDA; or

(b) The manufacture and distribution of the generator or reagent kit are not subject to the Federal Food, Drug and Cosmetic Act and the Public Health Service Act;

(3) The applicant submits information on the radionuclide, chemical and physical form, packaging including maximum activity per package, and shielding provided by the packaging of the radioactive material contained in the generator or reagent kit;

(4) The label affixed to the generator or reagent kit contains information on the radionuclide, quantity, and date of assay; and

(5) The label affixed to the generator or reagent kit, or the leaflet or brochure which accompanies the generator or reagent kit, contains:

(a) Adequate information, from a radiation safety standpoint, on the procedures to be followed and the equipment and shielding to be used in eluting the generator or processing radioactive material with the reagent kit; and

(b) A statement that this generator or reagent kit, as appropriate, is approved for use by persons licensed by the cabinet pursuant to 902 KAR 100:073 for uses listed in 902 KAR 100:073, Section 31 [902 KAR 100:051 and Group III of 902 KAR 100:075] or under equivalent licenses of the U.S. Nuclear Regulatory Commission or an Agreement State. The labels, leaflets, or brochures required by this section are in addition to the labeling required by the Food and Drug Administration (FDA) and they may be separate from or, with the approval of FDA, may be combined with the labeling required by FDA.

Section 11. Manufacture and Distribution of Sources or Devices Containing Radioactive Material for Medical Use. An application for a specific license to manufacture and distribute sources and devices containing radioactive material to persons licensed pursuant to 902 KAR 100:073 [051] for use as a calibration or reference source or for medical uses will be approved if:

(1) The applicant satisfies the general requirements in 902 KAR 100:040;

(2) The applicant submits sufficient information regarding each type of source or device pertinent to an evaluation of its radiation safety, including:

(a) The radioactive material contained, its chemical and physical form, and amount;

(b) Details of design and construction of the source or device;

(c) Procedures for, and results of, prototype tests to demonstrate that the source or device will maintain its integrity under stresses likely to be encountered in normal use and accidents;

(d) For devices containing radioactive material, the radiation profile of a prototype device;

(e) Details of quality control procedures to assure that production sources and devices meet the standards of the design and prototype tests;

(f) Procedures and standards for calibrating sources and devices;

(g) Legend and methods for labeling sources and devices as to their radioactive content; and

(h) Instructions for handling and storing the source or device from the radiation safety standpoint; these instructions are to be included on a durable label attached to the source or device or attached to a permanent storage container for the source or device; provided, that instructions which are too lengthy for such label may be summarized on the label and printed in detail on a brochure which is referenced on the label;

(3) The label affixed to the source or device, or to the permanent storage container for the source or device, contains information on the radionuclide, quantity, and date of assay, and a statement that the name of source or device is licensed by the cabinet for distribution to persons licensed pursuant to 902 KAR 100:073 [902 KAR 100:051] or under equivalent licenses of the U.S. Nuclear Regulatory Commission or an Agreement State, provided that such labeling for sources which do not require long term storage may be on a leaflet or brochure which accompanies the source;

(4) In the event the applicant desires that the source or device be required to be tested for leakage of radioactive material at intervals

longer than six (6) months, he shall include in the application sufficient information to demonstrate that such longer interval is justified by performance characteristics of the source or device or similar sources or devices and by design features that have a significant bearing on the probability or consequence of leakage of radioactive material from the source; and

(5) In determining the acceptable interval for tests of leakage of radioactive material, the cabinet will consider information that includes, but is not limited to:

(a) Primary containment or source capsule;

(b) Protection of primary containment;

(c) Method of sealing containment;

(d) Containment construction materials;

(e) Form of contained radioactive material;

(f) Maximum temperature withstood during prototype tests;

(g) Maximum pressure withstood during prototype tests;

(h) Maximum quantity of contained radioactive material;

(i) Radiotoxicity of contained radioactive material; and

(j) Operating experience with identical sources or devices or similarly designed and constructed sources or devices.

Section 12. Requirements for License to Manufacture and Distribute Industrial Products Containing Depleted Uranium for Mass-volume Applications. (1) An application for a specific license to manufacture industrial products and devices containing depleted uranium for use pursuant to 902 KAR 100:050 or equivalent regulations of the U.S. Nuclear Regulatory Commission or an Agreement State will be approved if:

(a) The applicant satisfies the general requirements specified in 902 KAR 100:040;

(b) The applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control procedures, labeling or marking, proposed uses, and potential hazards of the industrial product or device to provide reasonable assurance that possession, use, or transfer of the depleted uranium in the product or device is not likely to cause any individual to receive in any period of one (1) calendar quarter a radiation dose in excess of ten (10) percent of the limits specified in 902 KAR 100:020; and

(c) The applicant submits sufficient information regarding the industrial product or device and the presence of depleted uranium for a mass-volume application in the product or device to provide reasonable assurance that unique benefits will accrue to the public because of the usefulness of the product or device.

(2) In the case of an industrial product or device whose unique benefits are questionable, the cabinet will approve an application for a specific license under this section only if the product or device is found to combine a high degree of utility and low probability of uncontrolled disposal and dispersal of significant quantities of depleted uranium into the environment.

(3) The cabinet may deny any application for a specific license under this section if the end use(s) of the industrial product or device cannot be reasonably foreseen.

(4) Each person licensed pursuant to this section shall:

(a) Maintain the level of quality control required by the license in the manufacture of the industrial product or device and in the installation of the depleted uranium into the product or device;

(b) Label or mark each unit to:

1. Identify the manufacturer of the product or device and the number of the license under which the product or device was manufactured, the fact that the product or device contains depleted uranium, and the quantity of depleted uranium in each product or device; and

2. State that the receipt, possession, use, and transfer of the product or device are subject to a general license, or the equivalent, and the regulations of the U.S. Nuclear Regulatory Commission or an Agreement State;

(c) Assure that the depleted uranium before being installed in each product or device has been impressed with the following legend clearly legible through any plating or other covering: "Depleted Uranium;"

(d) Furnish the following:

1. A copy of the general license contained in 902 KAR 100:050 to each person to whom depleted uranium is transferred in a product or device for use pursuant to the general license contained in 902 KAR 100:050; or

2. A copy of the general license contained in the U.S. Nuclear Regulatory Commission's or Agreement State's regulation equivalent to 902 KAR 100:050 and a copy of any applicable U.S. Nuclear Regulatory Commission's or Agreement State's certificate, to each person to whom depleted uranium is transferred in a product or device for use pursuant to the general license of the U.S. Nuclear Regulatory Commission or an Agreement State, with a note explaining that use of the product or device is regulated by the U.S. Nuclear Regulatory Commission or an Agreement State under requirements substantially the same as those in 902 KAR 100:050;

(e) Report to the cabinet all transfers of industrial products or devices to persons for use under the general license in 902 KAR 100:050. Such report shall identify each general licensee by name and address, an individual by name and/or position who may constitute a point of contact between the cabinet and the general licensee, the type and model number of device transferred, and the quantity of depleted uranium contained in the product or device. The report shall be submitted within thirty (30) days after the end of each calendar quarter in which such a product or device is transferred to the generally licensed person. If no transfers have been made to persons generally licensed under 902 KAR 100:050 during the reporting period, the report shall so indicate;

(f) Furnish the following:

1. A report to the U.S. Nuclear Regulatory Commission of all transfers of industrial products or devices to persons for use under the U.S. Nuclear Regulatory Commission general license in 10 CFR Part 40.25;

2. A report to the responsible Agreement State agency all transfers of devices manufactured and distributed pursuant to this section for use under a general license in that state's regulations equivalent to 902 KAR 100:050;

3. Reports identifying each general licensee by name and address, an individual by name and/or position who may constitute a point of

contact between the agency and the general licensee, the type and model number of the device transferred, and the quantity of depleted uranium contained in the product or device. Reports shall be submitted within thirty (30) days after the end of each calendar quarter in which such product or device is transferred to the generally licensed person.

4. A report, upon the request of the responsible agency, that no transfers have been made to a general licensee of that agency; and

(g) Keep records showing the name, address, and point of contact for each general licensee to whom he transfers depleted uranium in industrial products or devices for use pursuant to the general license provided in 902 KAR 100:050 or equivalent regulations of the U.S. Nuclear Regulatory Commission or an Agreement State. The records shall be maintained for a period of two (2) years and shall show the date of each transfer, the quantity of depleted uranium in each product or device transferred, and compliance with the report requirements of this section.

Section 13. Licensing the Distribution of Naturally Occurring and Accelerator Produced Radioactive Material (NARM) in Exempt Quantities. (1) An application for a specific license to distribute NARM to persons exempted from these regulations pursuant to 902 KAR 100:045 will be approved if:

(a) The radioactive material is not contained in any food, beverage, cosmetic, drug, or other commodity designed for ingestion or inhalation by, or application to, a human being;

(b) The radioactive material is in the form of processed chemical elements, compounds, or mixtures, tissue samples, bioassay samples, counting standards, plated or encapsulated sources, or similar substances, identified as radioactive and to be used for its radioactive properties, but is not incorporated into any manufactured or assembled commodity, product, or device intended for commercial distribution; and

(c) The applicant submits copies of prototype labels and brochures and the cabinet approves such labels and brochures.

(2) The license issued under this section is subject to the following conditions:

(a) No more than ten (10) exempt quantities shall be sold or transferred in any single transaction. However, an exempt quantity may be composed of fractional parts of one (1) or more of the exempt quantity provided the sum of the fractions shall not exceed unity.

(b) Each exempt quantity shall be separately and individually packaged. No more than ten (10) such packaged exempt quantities shall be contained in any outer package for transfer to persons exempt pursuant to 902 KAR 100:045. The outer package shall be such that the dose rate at the external surface of the package does not exceed five-tenths (0.5) millirem per hour.

(c) The immediate container of each quantity or separately packaged fractional quantity of radioactive material shall bear a durable, legible label which:

1. Identifies the radionuclide and the quantity of radioactivity; and

2. Bears the words "Radioactive Material."

(d) In addition to the labeling information required by this subsection, the label affixed to the immediate container, or an accompanying brochure, shall:

1. State that the contents are exempt from licensing agency requirements;

2. Bear the words "Radioactive Material - Not for Human Use - Introduction into Foods, Beverages, Cosmetics, Drugs, or Medicinals, or into Products Manufactured for Commercial Distribution is Prohibited - Exempt Quantities Should Not Be Combined;" and

3. Set forth appropriate additional radiation safety precautions and instructions relating to the handling, use, storage, and disposal of the radioactive material.

(3) Each person licensed under this section shall maintain records identifying, by name and address, each person to whom radioactive material is transferred for use under 902 KAR 100:045 or the equivalent regulations of a licensing agency, and stating the kinds and quantities of radioactive material transferred. An annual summary report stating the total quantity of each radionuclide transferred under the specific license shall be filed with the cabinet. Each report shall cover the year ending June 30, and shall be filed within thirty (30) days thereafter. If no transfers of radioactive material have been made pursuant to this section during the reporting period, the report shall so indicate.

Section 14. Licensing the Incorporation of Naturally Occurring and Accelerator Produced Radioactive Material (NARM) into Gas and Aerosol Detectors. An application for a specific license authorizing the incorporation of NARM into gas and aerosol detectors to be distributed to persons exempt under 902 KAR 100:045 will be approved if the application satisfies requirements equivalent to those contained in U.S. Nuclear Regulatory Commission 10 CFR Part 32.26. The maximum quantity of radium-226 in each device shall not exceed one-tenth (0.1) microcurie.

C. HERNANDEZ, M.D., Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: July 16, 1990
FILED WITH LRC: July 23, 1990 at 10 a.m.

PUBLIC HEARING: A public hearing on this regulation has been scheduled for September 21, 1990 at 9 a.m. in the Department for Employment Services second floor conference room, 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 September 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: Donald R. Hughes, Sr.

(1) Type and number of entities affected: 8 radioactive material licensees.

(a) Direct and indirect costs or savings to those affected: There are no direct or indirect costs or savings to those effected entities.

1. First year: Does not apply.

2. Continuing costs or savings: Does not apply.

3. Additional factors increasing or decreasing costs (note any effects upon competition): Does not apply.

(b) Reporting and paperwork requirements:

There are no additional reporting or paperwork requirements.
(2) Effects on the promulgating administrative body: None
(a) Direct and indirect costs or savings: There are no direct or indirect costs or savings to the agency.
1. First year: Does not apply.
2. Continuing costs or savings: Does not apply.
3. Additional factors increasing or decreasing costs: Does not apply.
(b) Reporting and paperwork requirements: There are no additional reporting or paperwork requirements.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: Regulations must be identical to those of the U.S. Nuclear Regulatory Commission. No alternative is available.
(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: There is 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:
TIERING: Was tiering applied? Yes

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Section 274 of the Atomic Energy Act of 1954, as amended.
2. State compliance standards. This regulation provides general provisions for the issuance of radioactive material licenses to possess, use, and transfer radioactive material.
3. Minimum or uniform standards contained in the federal mandate. Federal and state requirements are identical.
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The requirements/responsibilities are identical to those of the U.S. Nuclear Regulatory Commission.
5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Federal and state standards are identical.

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

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

RELATES TO: KRS 205.245
STATUTORY AUTHORITY: KRS 194.050
NECESSITY AND FUNCTION: The Cabinet for Human Resources is responsible under Title XVI of the Social Security Act as amended by Public Law 92-603 to administer a state funded program of supplementation to all December, 1973, recipients of aid to the aged, blind and disabled, referred to as AABD, disadvantaged by the implementation of the Supplemental Security Income Program, 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. The cabinet shall operate a supplement program for certified personal care homes (PCH) which accept state supplementation recipients and have a thirty-five (35) percent mentally ill or mentally retarded (MI or MR) population in all of the PCH's occupied licensed personal care beds. Personal care services are described in 902 KAR 20:036. This regulation sets forth the provisions of the supplementation program.

Section 1. Mandatory State Supplementation. Mandatory state supplementation payments shall 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 shall continue until 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 when specified in 904 KAR 2:015) 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) Consider resources according to policies for the medically needy as contained in 907 KAR 1:004, except as noted in subsection (2) of this

section.

(2) [(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.]

(3) [(6)] Resources determined in accordance with subsection (1) [s (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 (2) [(1)] of this section. If resources exceed the upper limits, the individual or couple is ineligible.

Section 4. Income Considerations. Establish the amount of income according to policies for the medically needy in 907 KAR 1:004. 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 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 or minor dependent children. When conserving for the needs of the minor dependent children, income of the children shall 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 shall 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 $655 [595], effective 7/90 [1/1/90];

(b) Family care home: not less than $484, effective 1/1/90;

(c) Caretaker.

1. Single individual, or eligible individual with ineligible spouse (one who is not aged, blind, or disabled): not less than $417, effective 1/1/90;

2. Married couple, both eligible (aged, blind, or disabled), with one (1) requiring care: not less than $605, effective 1/1/90;

3. Married couple, both eligible and both requiring care: not less than $647, effective 1/1/90.

(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. Temporary Stay in a Medical Institution. A recipient of optional or mandatory state supplementatiaon shall have continuation of state supplementation benefits during a temporary stay in a hospital, psychiatric hospital, skilled nursing facility or intermediate care facility. [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 shall 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 shall have been admitted for permanent residence. The applicant or recipient shall also be a resident of Kentucky. Generally, this means the individual shall 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 [when] specified in Section 6 of this regulation [904 KAR 2:015].

(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 shall require the level of care provided in the out-of-state placement, there shall be no suitable placement available in Kentucky, and the placement shall 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) shall be considered if the individual is institutionalized. The individual is considered incapable of indicating intent if:

(a) His I.Q. is forty-nine (49) or less or he has a mental age of seven (7) or less, based on tests acceptable to the department; or

(b) He is judged legally incompetent; or

(c) Medical documentation, or other documentation acceptable to the state, supports a finding that he is incapable of indicating intent.

(4) An individual is institutionalized if he 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 state of residence is Kentucky if he is actually residing in the state.

(6) For any noninstitutionalized individual age twenty-one (21) or over, his state of residence is Kentucky if he 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 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 was living in Kentucky when he became incapable of indicating intent. If this cannot be determined, the state of residence is Kentucky unless he was living in another state when he 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) Except in 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 may 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 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 does not meet the residency requirements specified in this section, so long as the individual continues to reside in Kentucky and his receipt of supplementary payments has not since October, 1979 been interrupted by a period of ineligibility.

(15) Except in the preceding provisions of this section, a former Kentucky resident who becomes incapable of indicating intent while residing out of this state may be considered a Kentucky resident if he returns to this state and he has a guardian, parent or spouse residing in this state. This individual may not be considered a Kentucky resident on the basis of this subsection whenever, subsequent to that time, he 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.

(16) No aged, blind, or disabled person shall be eligible for state supplementation while residing in a personal care home or family care home unless such home is licensed under KRS 216B.010 to 216B.131.

Section 8. Mentally Ill or Mentally Retarded Supplement. Certified PCH may qualify for quarterly supplement payments of fifty (50) cents per diem for each state supplementation recipient in their care as of the first calendar day of each qualifying month. In order to qualify, PCH shall meet the following criteria:

(1) The PCH shall be licensed in accordance with KRS 216B.010 to 216B.131.

(2) The PCH shall care for residents who have a primary or secondary diagnosis of mental retardation (such as mild or moderate, or other ranges of retardation whose needs can be met in a personal care home) or mental illness (excluding such diagnoses as organic brain syndrome, senility, chronic brain syndrome, Alzheimer's).

(3) The PCH shall care for a thirty-five (35) MI or MR percent population in all of its occupied licensed PCH beds.

(4) The PCH shall not be eligible for payments during the time it is rated by the Office of Inspector General as "conditional". Rating requirements are specified in KRS 216.550 and

900 KAR 2:030.

(5) The PCH shall have a licensed nurse or certified medication technician (CMT) on duty for at least four (4) hours during the first or second shift. The PCH may not decrease licensed nurse or CMT staffing hours in effect prior to July 1990, as a result of this minimum requirement.

(6) The PCH shall file an application with the Department for Social Insurance (DSI) by the tenth working day of the first month of the calendar quarter to be eligible for payment in that quarter. Quarters shall begin in January, April, July and October. Once certified, eligibility continues as long as criteria continues to be met.

(7) For state fiscal year (SFY) 1991 implementation only, PCH interested in being certified for the MI or MR supplement shall file a letter of intent with DSI by July 31, 1990. To assure adequate time for the MI or MR training and certification process for both the cabinet and the PCH, the letter of intent shall secure money for the first and second quarters of SFY 1991.

(8) The PCH shall provide DSI with its tax identification number and address annually and with a monthly report of all residents of the PCH (including resident's social security number) who were residents of the PCH on the first day of the month. In order to maintain confidentiality, the PCH shall annotate the monthly listing with a star which indicates a resident has a MI or MR diagnosis and note with a check mark those residents who receive state supplementation but are not mentally ill or mentally retarded. A star and a check mark shall indicate the resident is both MI or MR and a recipient of state supplementation. The monthly report shall be used for certification, payment, and audit purposes. The monthly report shall be postmarked to DSI by the fifth working day of the month. For implementation in SFY 1991, facilities which file a timely letter of intent with DSI shall file the monthly reports for July and August, 1990, on or before August 15, 1990.

(9) The PCH shall notify DSI when its MI or MR percentage goes below thirty-five (35) percent for all personal care residents. Facilities may be randomly audited to verify percentages and payment accuracy.

Section 9. Training. The PCH licensed nurse or CMT shall attend MI or MR training provided through the Department for Mental Health and Mental Retardation Services. Other staff may be trained in order to assure the facility always has at least one (1) certified staff employed for certification purposes.

(1) MI or MR training shall be provided through a one (1) day workshop. Training will cover at least the following:

(a) Importance of proper medication administration.

(b) Side affects and adverse medication reactions especially with regard to psychotropics.

(c) Signs and symptoms of an acute onset of a psychiatric episode.

(d) Characteristics of each major diagnosis, for example, paranoia, schizophrenia, bi-polar disorder, mental retardation, etc.

(e) Guidance in the area of supervision versus patient rights for the MI or MR population.

(f) How to provide necessary activities to meet the needs of mentally ill or mentally retarded residents.

(2) Initial training shall include the licensed nurse or CMT and may include the owner or operator. These individuals shall be trained in the quarter during which the application is filed. For implementation in SFY 1991 only, the initial training shall take place in the quarter during which the letter of intent is filed or the following quarter. To assure that a certified staff member is always employed at the facility, a maximum of five (5) may be trained during a year (one (1) additional staff member in each of the quarters following the initial training). If staff turnover results in the loss of the licensed nurse or CMT and five (5) staff have been trained, the PCH shall request in writing to DSI an exemption of the five (5) staff rule. The PCH shall have on staff a licensed nurse or CMT who has received the MI or MR training or is enrolled in the next scheduled MI or MR training workshop at the closest location.

(3) The Department for Mental Health and Mental Retardation Services will provide a certificate to direct care staff who complete the workshop.

(4) DSI shall pay twenty-five (25) dollars for each staff member receiving training up to the maximum of five (5) staff per year, in accordance with 904 KAR 2:050.

Section 10. MI or MR Certification. The Office of the Inspector General, Division of Licensing and Regulation, shall visit PCH to certify their eligibility to participate in the MI or MR supplement. The PCH's initial MI or MR certification may be separate from the annual survey. However, after the initial MI or MR certification, the certification shall be in effect until the subsequent licensure survey, which can be greater than or less than twelve (12) months.

(1) Written notification to DSI from the PCH shall be postmarked within five (5) working days after staff have completed the training workshop. DSI shall notify the Division of Licensing and Regulation that the facility is ready to be certified.

(2) The Division of Licensing and Regulation shall review records, observe and interview residents and staff during the certification process. The Division of Licensing and Regulation shall review records to assure the following criteria is met:

(a) Certification is on file at the PCH to verify staff training by the Department for Mental Health and Mental Retardation Services.

(b) The PCH's certified staff have trained all other direct care staff through in-service training or orientation regarding the information obtained at the MI or MR training workshop. The PCH shall maintain documentation of attendance at the in-service training for all direct care staff.

(c) Activities are being regularly provided and meet the needs of the residents. When residents do not attend group activities, activities shall also be designed to meet the needs of individual residents, for example, reading or other activity which may be provided on an individual basis. Individualized care plans are not required to meet this criteria.

(d) Medication administration meets licensure requirements and licensed nurse or CMT

demonstrates a knowledge of psychotropic drug side affects.

(3) The Division of Licensing and Regulation shall be provided the MI or MR training package to assure survey staff are aware of what has been taught for MI or MR certification purposes.

(4) The Division of Licensing and Regulation shall also review the PCH copy of the listing submitted to DSI prior to performing their record review during the MI or MR certification process.

(5) If thirty-five (35) percent MI or MR population is met on the day of the visit, the PCH shall be deemed to have an ongoing qualifying percentage effective with month of request for certification. This certification shall be in effect until next annual survey which can be greater than or less than twelve (12) months. The PCH is responsible for notifying DSI, within ten (10) working days, when the MI or MR population goes below thirty-five (35) percent of all occupied personal care beds in the facility.

(6) The Office of the Inspector General, Division of Licensing and Regulation, shall provide a form to DSI monthly identifying certified PCH eligible for MI or MR supplement. This information shall be provided by the fifth working day of each month for the prior month.

(7) The Office of Inspector General, Division of Licensing and Regulation, shall inform DSI monthly of PCH which receive a conditional rating. This information shall be provided by the fifth working day of each month for the prior month.

Section 11. Hearings and Appeals. Applicants or recipients of benefits under programs described herein who are dissatisfied with any action or inaction on the part of the cabinet shall have the right to a hearing under 904 KAR 2:055.

MIKE ROBINSON, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: July 20, 1990
FILED WITH LRC: July 31, 1990 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 21, 1990 at 9 a.m. in the Department for Employment Services Conference Room, Second Floor West, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by September 16, 1990, five days prior to 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. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street - 4 West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: James E. Randall

(1) Type and number of entities affected: 4,100 recipients of state supplementation in personal care will receive an increase in payment. There are potentially 92 personal care facilities which may participate in the MI/MR supplement. However, it is unknown if they will all apply or be certified.

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

1. First year: Recipients in personal care homes receive a $60 increase per month. The entire budget for the MI/MR supplement program, $500,000, is allocated for benefit payments to personal care homes certified for participation in the program.

2. Continuing costs or savings: $500,000 has been allocated for FY 1992 for MI/MR benefit payments.

3. Additional factors increasing or decreasing costs (note any effects upon competition): The benefit increase should help offset the escalating cost of care and the impact on facilities due to minimum wage increase. Since these facilities accept the lower state supplementation rate for the monthly cost of care and all licensed personal care facilities have the ability to participate in this program, there is no affect on competition.

(b) Reporting and paperwork requirements:

1. Facilities wishing to participate in the MI/MR must file an application with the Department for Social Insurance (DSI).

2. Participating facilities will file a monthly report form to identify residents and indicate those who receive state supplementation benefits or have MI/MR diagnosis.

3. Participating facilities must report to DSI any decrease in the MI/MR population of the facility below 35 percent.

4. Participating facilities must notify DSI within 5 working days of the completion of mandatory staff training.

5. Facilities must request an exemption to exceed the maximum of 5 staff receiving MI/MR training within the period of 1 year. Exemption can be granted if staff turnover causes a facility to lose the required trained staff.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: $3,000,000 cost, as approved in HB 799 in the state's budget, for personal care increase. $500,000 cost, already anticipated in the state budget, for the MI/MR supplement in FY 1991 budget.

2. Continuing costs or savings: Yearly costs are anticipated at the same level for the MI/MR program. HB 799 approved $4,000,000 for FY 1992 for personal care increase.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: (1) The cabinet's Office of Inspector General, Division of Licensing and Regulation, will annually review the facility to assure that MI/MR certification requirements are met. The results of the reviews will be passed to the Department for Social Insurance, Division of Management & Development, on a monthly basis. (2) The Department for Social Insurance, Division of Management & Development, will notify facilities of their eligibility or

ineligibility for benefit payments. Accounting of expended funds will also be done by the Division of Management & Development. (3) Department of Mental Health/Mental Retardation Services will provide a certificate to direct care staff who complete the workshop.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: The payment is to serve as an incentive to personal care homes caring for a 35% population of residents who have been diagnosed as mentally ill or mentally retarded (MI/MR). By providing an incentive payment for augmented services to personal care homes with MI/MR residents, the cabinet believes this program can help prevent homelessness for this population.

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? Yes. Tiering was applied in the MI/MR supplement program. In the program design, the department wanted to supplement funding to personal care homes which serve the specified MI/MR population. This is being done to provide a structured and protective residential setting for needy individuals who are at risk of becoming homeless or of being abused or exploited due to their mental disability. Tiering was not applied in the increased payment to recipients of state supplementation residing in personal care homes. All state supplementation recipients in personal care received the $60 per month increase. The state maintains a uniform standard for all personal care recipients.

CABINET FOR HUMAN RESOURCES
Department for Medicaid Services
(Proposed Amendment)

907 KAR 1:470. Durable medical equipment.

RELATES TO: KRS 205.520
STATUTORY AUTHORITY: KRS 194.050

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the cabinet, by regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the provisions relating to durable medical equipment services (including medical supplies) for which payment shall be made by the Medical Assistance Program in behalf of both the categorically needy and medically needy.

Section 1. Conditions for Coverage and Limitations on Durable Medical Equipment and Medical Supplies. Durable medical equipment and medical supplies are covered only in accordance with the following conditions:

(1) The equipment or supplies which are covered shall be limited to those covered in the Medicare Program unless separately specified for coverage by the cabinet. Any equipment with a cost of $150 or more must be preauthorized by the cabinet.

(2) The equipment or supplies shall be ordered by the physician as required in the treatment of the patient.

(3) The equipment or supplies shall be suitable for the patient to use in the home.

(4) The recipients utilizing the equipment or supplies shall be Medicaid eligible, and the durable medical equipment providers shall be required to participate as providers in both the Medicare and Medicaid programs.

(5) Coverage for an item of durable medical equipment shall be in accordance with the following guidelines: that the item shall be durable in nature and able to stand repeated use; serve a medical purpose; generally be not useful to a person in the absence of illness or injury; be appropriate for use in the home; and be necessary, appropriate and reasonable for treatment of an illness or injury or to improve the functioning of a malformed body member. This definition includes but is not limited to wheelchairs, crutches, walkers, intermittent positive pressure breathing machines, braces, artificial limbs, and oxygen (when such oxygen supply can be maintained, replaced, or resupplied at all times). The Medicare Program will be used as a guide for determining the appropriateness for coverage, where applicable.

Section 2. Equipment Not Covered Under Durable Medical Equipment. <u>For services provided on or after July 1, 1990,</u> equipment which would appropriately be considered for coverage only through other sections or components of the Medical Assistance Program, for example, lens and frames, hearing aids and pacemakers; items such as [orthopedic shoes,] contact lens and dentures; equipment used primarily and customarily for a nonmedical purpose, for example, air conditioners and humidifiers; physical fitness equipment; and equipment which basically serves comfort and convenience functions (for example, elevators) are not covered under the durable medical equipment component of the Medicaid Program.

[Section 3. The provisions of this regulation shall be effective with regard to services provided on and after May 1, 1989.]

ROY BUTLER, Commissioner
HARRY J. COWHERD, M.D., Secretary

APPROVED BY AGENCY: August 3, 1990

FILED WITH LRC: August 8, 1990 at 1 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 21, 1990 at 9 a.m. in the Department for Employment Services Conference Room, Second Floor West, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by September 16, 1990, five days prior to 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. The 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 unelss a written

request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street - 4 West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roy Butler
(1) Type and number of entities affected: About 100 Medicaid recipients annually; potentially any participating durable medical equipment provider.
(a) Direct and indirect costs or savings to those affected: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: $10,000 (cost)
2. Continuing costs or savings: $10,000 (cost)
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: No viable alternatives were identified.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. Federal Medicaid regulations require that similarly situated providers be treated in a similar manner.

CABINET FOR HUMAN RESOURCES
Department for Mental Health and Mental Retardation Services
(Proposed Amendment)

908 KAR 3:080. Policies and procedures of Hazelwood ICF-MR.

RELATES TO: KRS Chapters 202A, 202B, 210
STATUTORY AUTHORITY: KRS 194.050, 202A.196, 202B.060, 210.010, 210.040, 210.045, 210.055, 210.285, 42 CFR 440 through 489
NECESSITY AND FUNCTION: KRS 210.010 directs that the Secretary for the Cabinet for Human Resources shall adopt rules and regulations which insure proper administration and enforcement of these chapters.

Section 1. Polices and procedures of Hazelwood ICF/MR as set forth in the August 15, 1990, [November 15, 1989] edition of the Hazelwood policy manual consisting of five (5) volumes relating to the operation of Hazelwood ICF-MR are incorporated by reference.

Section 2. These policies and procedures contained in five (5) volumes with a total of 186 pages. They are available for inspection or copy at the office of the Commissioner of the Department of Mental Health/Mental Retardation Services, 275 East Main Street, Frankfort, Kentucky, and at Hazelwood, 1800 Bluegrass Avenue, Louisville, Kentucky.

DENNIS D. BOYD, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: July 26, 1990
FILED WITH LRC: July 31, 1990 at 11 a.m.
PUBLIC HEARING: A public hearing on this regulation has been scheduled for September 21, 1990 at 9 a.m. in the Employment Services Conference Room, Second Floor West, CHR Building, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by September 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: Dennis D. Boyd
(1) Type and number of entities affected: The group of persons who could be affected are approximately 220 with mental retardation and their families.
(a) Direct and indirect costs or savings to those affected: None. This regulation deals with the treatment of residents.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements:
(2) Effects on the promulgating administrative body: There will be very little change in procedures.
(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: This has no effect on revenue.
(4) Assessment of alternative methods; reasons why alternatives were rejected: No viable alternatives were identified.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no statute or regulation 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: This is an administory to incorporate manuals by reference.
TIERING: Was tiering applied? Yes

PROPOSED REGULATIONS RECEIVED THROUGH NOON, AUGUST 15, 1990

STATE BOARD OF ELECTIONS

31 KAR 4:010. Voter identification cards.

RELATES TO: KRS 117.227
STATUTORY AUTHORITY: KRS 117.015
NECESSITY AND FUNCTION: To define the forms of identification that are acceptable in confirming the identity of voters on electon day, and to provide uniformity of identification standards throughout the state. This administrative regulation is required to establish a procedure for documenting the confirmation of identity on precinct voter rosters.

Secton 1. In addition to the forms of identificaton specifically provided for by KRS 117.227, any identification card that bears both the picture and signature of the voter, or any identification card that has been issued by the county, and which ahs been approved in writing by the State Board of Elections, shall be acceptable for conifrmation of the voter's identity.

Section 2. The method of identification used shall be recorded on the precinct voter roster by use of the following codes:
(1) Personal Acquaintance - "PA"
(2) Motor Vehicle Operator's License - "DL"
(3) Social Security Card - "SS"
(4) Credit Card - "CC"
(5) Identification Card with Picture and Signature (Other Identification) - "OI"

Section 3. The electon officer confirming the identity shall enter his initials on the precinct voter roster in lieu of a sgnature.

BREMER EHRLER, Chairman
APPROVED BY AGENCY: July 20, 1990
FILED WITH LRC: July 26, 1990 at 2 p.m.
PUBLIC HEARING: A public hearing on this regulation will be held on September 21, 1990, at 10 a.m. in Room 107 of the Capitol, Frankfort, Kentucky. If no written notice of intent to attend the public hearing is received within five (5) days before the scheduled hearing, the hearing will be cancelled. Those interested in attending shall notify in writing: David H. Ashley, Legal Counsel, State Board of Elections, 909 Leawood Drive, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: David H. Ashley
(1) Type and number of entities affected: Registered voters in the state.
(a) Direct and indirect costs or savings to those affected:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional costs or savings as the result of this regulation.
(b) Reporting and paperwork requirements: There are no additional reporting and/or paperwork requirements beyond those currently required.
(2) Effects on the promulgating administrative body: Precinct electon officers will have an additional means of voter identification, and will have a uniform system of identifying voters and noting the method of identification on the precinct voter roster.
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs: There are no additional costs or savings as the result of this regulation.
(b) Reporting and paperwork requirements: There are no additional reporting or paperwork requirements.
(3) Assessment of anticipated effect on state and local revenues: There are no affects on state and local revenues.
(4) Assessment of alternative methods; reasons why alternatives were rejected: The requirements of KRS 117.227 are mandatory.
(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: No.
TIERING: Was tiering applied? No. Tiering is inapplicable because KRS 117.227 prescribes a single standard to be applied to all affected persons and entities. There is only one class of persons or entities affected.

STATE BOARD OF ELECTIONS

31 KAR 4:020. Election costs, county clerk reimbursement form.

RELATES TO: KRS 117.343
STATUTORY AUTHORITY: KRS 117.015, 117.343
NECESSITY AND FUNCTION: To provide a method and form for the reimbursement to the county clerks for the cost of employing office personnel necessary for the conduct of elections including the registration and purgation of voters. Said reimbursement not to exceed fifty (50) cents per registered voter in the county per year.

Section 1. The reimbursement shall be based on the number of registered voters for the general election held in November.

Section 2. The form adopted shall be prescribed by the Finance and Administration Cabinet; is designated as DOA-48, (see Appendix A).

(See Appendix A on page 872
of this Administrative Register)

BREMER EHRLER, Chairman
APPROVED BY AGENCY: July 20, 1990
FILED WITH LRC: July 26, 1990 at 2 p.m.
PUBLIC HEARING: A public hearing on this regulation will be held on September 21, 1990, at 10 a.m. in Room 107 of the Capitol, Frankfort, Kentucky. If no written notice of intent to attend the public hearing is received

within five (5) days before the scheduled hearing, the hearing will be cancelled. Those interested in attending shall notify in writing: David H. Ashley, Legal Counsel, State Board of Elections, 909 Leawood Drive, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: David H. Ashley
(1) Type and number of entities affected: County clerks.
(a) Direct and indirect costs or savings to those affected:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional costs or savings as the result of this regulation. The amount necessary to reimburse the county clerks has been budgeted previously.
(b) Reporting and paperwork requirements: County clerks will be required to file with the State Board of Elections annually a report setting forth the cost of office personnel involved in the election process.
(2) Effects on the promulgating administrative body: The State Board of Elections will be required to process the filing from each county clerk. No additional personnel or costs will be incurred.
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs: The costs to be reimbursed to county clerks have previously been budgeted and are in place.
(b) Reporting and paperwork requirements: One additional form to be filed by each county clerk annually and processed by the State Board of Elections.
(3) Assessment of anticipated effect on state and local revenues: County clerks will be reimbursed for the cost of office personnel involved in the election process not to exceed 50 cents per registered voter in the county per year.
(4) Assessment of alternative methods; reasons why alternatives were rejected: The requirements of KRS 117.343 are mandatory.
(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: No.
TIERING: Was tiering applied? No. Tiering is inapplicable because KRS 117.343 prescribes a single standard to be applied to all affected persons and entities. There is only one class of persons or entities affected.

STATE BOARD OF ELECTIONS

31 KAR 4:030. Reporting forms.

RELATES TO: KRS 117.355, 119.307
STATUTORY AUTHORITY: KRS 117.105, 117.355
NECESSITY AND FUNCTION: To prescribe forms for the precinct election sheriff and the county board of elections to report elections irregularities and recommendations for improving the elections process to report special ballot and voter assistance usage statistics and the absence of precinct election officials to specified officials.

Section 1. The following State Board of Elections forms are hereby adopted:
(1) SBE 53 (Precinct Sheriff's Postelection Report) effective 7/88, (see Appendix A);
(2) SBE 54 (County Board of Elections Postelection Report) effective 8/88, (see Appendix B);
(3) SBE 54A (County Board of Elections Postelection Statistical Report) effective 8/88, (see Appendix C); and
(4) SBE 54B (County Board of Elections Precinct Official Absence Report) effective 8/88, (see Appendix D).

(See Appendices A-D on pages 873-876 of this Administrative Register)

BREMER EHRLER, Chairman
APPROVED BY AGENCY: July 20, 1990
FILED WITH LRC: July 26, 1990 at 2 p.m.
PUBLIC HEARING: A public hearing on this regulation will be held on September 21, 1990, at 10 a.m. in Room 107 of the Capitol, Frankfort, Kentucky. If no written notice of intent to attend the public hearing is received within five (5) days before the scheduled hearing, the hearing will be cancelled. Those interested in attending shall notify in writing: David H. Ashley, Legal Counsel, State Board of Elections, 909 Leawood Drive, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: David H. Ashley
(1) Type and number of entities affected: Precinct election sheriffs and county board of elections.
(a) Direct and indirect costs or savings to those affected:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional costs or savings as the result of this regulation.
(b) Reporting and paperwork requirements: Each precinct election sheriff and each county board of elections is required to file a postelection report which reports are submitted to the grand jury of each county subsequent to each election.
(2) Effects on the promulgating administrative body: None
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs: There are no additional costs or savings as the result of this regulation.
(b) Reporting and paperwork requirements: Each precinct election sheriff and county board of elections will be required to file the postelection reports, subsequent to each primary and general election.
(3) Assessment of anticipated effect on state and local revenues: There are no affects on state and local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: The requirements of KRS 117.355 are mandatory.
(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: No
TIERING: Was tiering applied? No. Tiering is inapplicable because KRS 117.355 prescribes a single standard to be applied to all affected persons and entities. There is only one class of persons or entities affected.

STATE BOARD OF ELECTIONS

31 KAR 4:040. Special ballots cast in county clerk's office.

RELATES TO: KRS 117.086(2)
STATUTORY AUTHORITY: KRS 117.015, 117.086(3)
NECESSITY AND FUNCTION: This regulation is necessitated by KRS 117.086(3) which requires the State Board of Elections to issue administrative regulations to provide for casting ballots as provided in KRS 117.086(2) which requires the county clerks in each county to designate a location within their office where special ballots may be cast secretly. This regulation provides guidelines as to the establishment of a voting place within the clerk's office; prohibits certain activities by the clerks and their deputies when special ballots are being voted in the office.

Section 1. Not less than thirty (30) days prior to any general, special, or regular election, the clerk of each county shall establish within their office a special area to be used solely for the purpose of allowing those voters to cast special ballots pursuant to KRS 117.086 within the clerk's office. The area so designated and established shall afford such voters the opportunity to cast their ballots in secret. The area designated may or may not utilize a special booth for the casting of such ballot. In those counties in which the clerk's office does not have sufficient physical space in which to designate and place a special area away, and apart, from the normal activities of the clerk's office, the booth or area may be located outside the physical limitations of the clerk's office in an area such as a hallway or other office as long as such area is capable of direct supervision by the clerk or his deputies at such time as that area is being utilized for the purpose of casting special ballots. In such cases, the clerk shall insure that while any person is casting a special ballot the area shall remain free and clear of any other persons, except any person assisting the voter pursuant to KRS 117.255.

Section 2. At such time as the clerk establishes and begins to utilize a special area of his office, or elsewhere, such area shall become a polling place within the meaning of KRS 117.235, and the provisions of KRS 117.235(3) prohibiting electioneering at the polling place or within a distance of 500 feet from any entrance to a polling place shall be applicable. Electioneering as defined by KRS 117.235(3) shall include the displaying of signs, the distribution of campaign literature, cards or handbills, the soliciting of signatures to any petition, or the solicitation of votes for or against any candidate or question on the ballot in any manner. This prohibition shall not e construed to prohibit the clerk, or his deputies, from answering any questions concerning any issue or item on the ballot or the manner of voting the same. Any clerk, or any deputy, shall be prohibited, however, from assisting any voter requesting assistance pursuant to the provisions of KRS 117.255.

BREMER EHRLER, Chairman
APPROVED BY AGENCY: July 20, 1990
FILED WITH LRC: July 26, 1990 at 2 p.m.
PUBLIC HEARING: A public hearing on this regulation will be held on September 21, 1990, at 10 a.m. in Room 107 of the Capitol, Frankfort, Kentucky. If no written notice of intent to attend the public hearing is received within five (5) days before the scheduled hearing, the hearing will be cancelled. Those interested in attending shall notify in writing: David H. Ashley, Legal Counsel, State Board of Elections, 909 Leawood Drive, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: David H. Ashley
(1) Type and number of entities affected: County clerks.
(a) Direct and indirect costs or savings to those affected:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition): The only possible additional cost would be if a county clerk chooses to purchase a small, portable voting booth, which costs are minimal.
(b) Reporting and paperwork requirements: There are no additional reporting and/or paperwork requirements beyond those currently required.
(2) Effects on the promulgating administrative body: None
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs: There are no additional costs or savings as the result of this regulation.
(b) Reporting and paperwork requirements: There are no additional reporting or paperwork requirements.
(3) Assessment of anticipated effect on state and local revenues: There are no affects on state and local revenues.
(4) Assessment of alternative methods; reasons why alternatives were rejected: The requirements of KRS 117.086(2) are mandatory.
(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: No.

TIERING: Was tiering applied? No. Tiering is inapplicable because KRS 117.086(2) and (3) prescribes a single standard to be applied to all affected persons and entities. Only county clerks are affected.

STATE BOARD OF ELECTIONS

31 KAR 4:050. Removal procedure for precinct election officers.

RELATES TO: KRS 117.045(6)
STATUTORY AUTHORITY: KRS 117.015
NECESSITY AND FUNCTION: This regulation exists to provide a hearing procedure for the removal of an election officer.

Section 1. KRS 117.045(6) provides that the State Board of Elections may require the county board of elections to submit its list of precinct officers for review. The State Board of Elections may, after a hearing, direct the removal of any election officer who the state board finds, based upon clear and convincing evidence, would not fairly administer the state election laws. The state board shall replace any officer so removed upon the sworn complaint of any person, or on its own initiative, the State Board of Elections shall investigate alleged violations of the election laws, or the failure to properly carry out the election laws by any precinct election officer. When the State Board of Elections concludes that there is evidence to believe an election officer, or officers, has not or would not fairly administer the election laws, it may hold a hearing to determine if such officer has not, or would not fairly administer the election laws. In such event, the State Board of Elections shall notify the complainant, if any, and the person complained against that a hearing shall be conducted of the specific offenses alleged not less than thirty (30) days prior to the date of the hearing. At the hearing the person complained against shall have all of the protections of due process, including, but not limited to, the right to be represented by counsel, the right to call and examine witnesses, the right to the production of evidence by subpoena, the right to introduce exhibits and the right to cross examine opposing witnesses. When the registry determines that the preponderance of the evidence shows that the election officer has failed to fairly administer the election laws of the state, or has taken such action as to constitute a violation of the election laws, it shall issue an order removing that election officer.

Section 2. Upon the issuance of any order requiring the removal of an election officer, the county board of elections in the county in which the officer served shall within ten (10) days from the date of issuance of the order by the State Board of Elections submit to the State Board of Elections a new list of officers for that precinct, or precincts. The State Board of Elections shall then appoint from that list a new officer or officers to serve during the remaining term.

Section 3. If the State Board of Elections conclude that there is probable cause to believe that an election officer has willfully violated the election laws, it shall refer such violation to the attorney general for prosecution. The attorney general may request the appropriate county or Commonwealth's attorney to prosecute the matter and may request from the State Board of Elections all evidence collected in its investigation.

BREMER EHRLER, Chairman
APPROVED BY AGENCY: July 20, 1990
FILED WITH LRC: July 26, 1990 at 2 p.m.
PUBLIC HEARING: A public hearing on this regulation will be held on September 21, 1990, at 10 a.m. in Room 107 of the Capitol, Frankfort, Kentucky. If no written notice of intent to attend the public hearing is received within five (5) days before the scheduled hearing, the hearing will be cancelled. Those interested in attending shall notify in writing: David H. Ashley, Legal Counsel, State Board of Elections, 909 Leawood Drive, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: David H. Ashley
(1) Type and number of entities affected: Precinct election officer, who may be subject to removal for cause.
(a) Direct and indirect costs or savings to those affected:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition): The specific number of persons affected cannot be determined until the State Board of Elections is required to institute a removal procedure. The only additional cost in that event might be the employment of a hearing officer and court stenographer. The only additional cost to the precinct election officer subject to removal would be those incurred if he chooses to be represented by counsel.
(b) Reporting and paperwork requirements: It is anticipated that reporting and paperwork would be minimal. A transcription of the hearing and report by a hearing officer would be the only requirements.
(2) Effects on the promulgating administrative body: None
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs: There are no additional costs or savings as the result of this regulation.
(b) Reporting and paperwork requirements: There are no additional reporting or paperwork requirements.
(3) Assessment of anticipated effect on state and local revenues: There are no affects on state and local revenues.
(4) Assessment of alternative methods; reasons why alternatives were rejected: The requirements of KRS 117.045(6) are mandatory.
(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: No
TIERING: Was tiering applied? No. Tiering is

inapplicable because KRS 117.045(6) prescribes a single standard to be applied to all affected persons and entities. The only persons affected are precinct election officers who might be subject ot removal by the State Board of Elections.

DEPARTMENT OF PERSONNEL

101 KAR 2:035. Compensation plan and pay incentive systems.

RELATES TO: KRS 18A.030, 18A.110, 18A.165
STATUTORY AUTHORITY: KRS Chapter 13A, 18A.110
NECESSITY AND FUNCTION: KRS 18A.110 requires the Commissioner of Personnel to promulgate comprehensive administrative regulations consistent with the provisions of KRS Chapter 18A, which govern the pay plan for all employees in the classified service. This regulation is to assure uniformity and equity in administration of the pay plan in accordance with statutory requirements and replaces 101 KAR 2:030.

Section 1. Appointments. Initial appointments shall be made at the minimum rate of the pay grade established for the job classification unless the commissioner authorizes appointment of a highly qualified applicant at a rate above the minimum, not to exceed the midpoint of the pay grade. Such exceptions shall be based on the outstanding and unusual nature of the applicant's education and experience over and above the minimum requirements set for the job classification. Employees possessing qualifications similar to the applicant being appointed that are employed in the same job classification, by the same agency, in the same county shall have their salaries adjusted by the appointing authority to the same rate granted in the in-range appointment if that rate is higher than their current salaries.

Section 2. Reentrance to State Service. (1) Appointing authorities, with the approval of the commissioner, may place reemployed, reinstated, or former employee probationally appointed at a salary:
(a) Which is the same as that paid at the time of separation from state service if such salary is within the current pay grade;
(b) Higher than that paid at the time of separation from state service due to salary schedule or pay grade adjustments;
(c) In accordance with the standards used for making new appointments; or
(d) Lower than that paid at the time of separation from the classified service if such salary is within the current pay grade.
(2) Former employees who were separated from state service by layoff and who are reinstated or reemployed in the same or a similar job classification within five (5) years from the date of layoff may receive the salary they were receiving at the time of layoff, even if such salary is above the maximum of the pay grade.
(3) Former employees reemployed, reinstated or probationally appointed to a salary:
(a) Below the midpoint of the pay grade shall be considered for a probationary increment at the time of completion of the probationary period;
(b) Which equals or exceeds the midpoint of the pay grade may be considered for a probationary increment at the time of completion of the probationary period. If such employee is not considered for an increment upon completion of the probationary period, he shall be considered for an increment at the beginning of the month following completion of twelve (12) months service from the date of reemployment, reinstatement or appointment.

Section 3. Salary Adjustments. (1) Promotion. An employee who is promoted shall receive a salary increase of not less than five (5) percent upon promotion. In no case shall the employee's salary be below the minimum of the higher grade following promotion. Employees completing a promotional probationary period may receive a five (5) percent promotional increase at the beginning of the month following completion of the probationary period. If the promotion is to a position which constitutes an unusual increase in the level of responsibility, the appointing authority, with the prior written approval of the commissioner, may grant upon promotion a ten (10) percent or fifteen (15) percent salary increase over the employee's previous salary. A promotional increase shall not change the employee's regular increment date.
(2) Demotion. An employee who is demoted may have his salary changed to a rate which is in the pay grade for the new class; this rate shall not exceed the rate which the employee was receiving prior to the demotion.
(3) Reclassification. An employee who is advanced to a higher pay grade through reclassification shall receive a salary increase of five (5) percent except, that in no case shall the employee's salary after such increase be below the minimum of the new pay grade. An employee who is placed in a lower pay grade through reclassification shall receive the same salary he was receiving prior to reclassification.
(4) Reallocation. An employee who is advanced to a higher pay grade through a reallocation of his position may receive a salary increase of five (5) percent except, that in no case shall the employee's salary after such increase be below the minimum of the higher pay grade. An employee who is placed in a lower pay grade through reallocation shall receive the same salary he was receiving prior to reallocation.
(5) Detail to special duty. An employee who is approved for detail to special duty as provided by 101 KAR 2:070, Section 2, may receive a five (5) percent increase upon detail to a higher job classification, except that in no case shall the employee's salary after such increase be below minimum of the higher pay grade.
(6) Reversion.
(a) An employee who is reverted while serving a promotional probationary period following promotion, or following detail to special duty to a higher job classification, shall have his salary changed to the rate received prior to such promotion or detail to special duty and is entitled to all salary advancements and adjustments he would have received had he not left the job classification.
(b) An employee who is reverted to a position in the classified service from a position in the unclassified service shall have his salary changed to the rate received at the time he left the classified service and is entitled to all salary advancements and adjustments he would have received had he not left the classified

service.

(7) Pay grade changes. An employee who is advanced to a higher pay grade through a class reevaluation and grade adjustment under Section 7 of this regulation may receive a salary increase of five (5) percent or ten (10) percent except that in no case shall the employee's salary after such increase be below the minimum of the new pay grade.

(8) Other salary adjustments.

(a) An employee who was eligible for but did not receive a five (5) percent salary advancement as the result of any of the following actions: promotional increase, reallocation, or class grade changes, effective on or after January 3, 1986, may have his salary adjusted upon request by the appointing authority and approval by the commissioner. In no case may the salary adjustment be made retroactive to the original effective date but shall be granted on the first of the month following approval of the increase.

(b) Subject to approval by the commissioner, an appointing authority may request a five (5) percent salary adjustment when a special entrance rate is established under Section 7(3) of this regulation.

Section 4. Salary Advancements. (1) Probationary increments. Full-time and part-time employees who complete an initial probationary period with satisfactory performance shall be granted an increment at the beginning of the month following completion of the probationary period, except as specified under Section 2(3) of this regulation. The service may be provisional or probationary.

(2) Annual increment dates shall be established:

(a) Following completion of an initial probationary period, with satisfactory performance, or following completion of twelve (12) months service from the date of appointment, reinstatement, or reemployment, pursuant to Section 2(3) of this regulation.

(b) When an employee returns from leave without pay pursuant to subsection (4) of this section.

(3) Annual increment dates will not change when an employee:

(a) Is in a position which is assigned a new or different salary grade;

(b) Receives a salary adjustment as a result of his position being reallocated;

(c) Is transferred;

(d) Receives a demotion;

(e) Is approved for detail to special duty;

(f) Receives an educational achievement award;

(g) Returns from military leave;

(h) Is reclassified; or

(i) Is promoted or receives a promotional increase after completion of a promotional probationary period.

(4) Return from leave without pay. Employees returning to duty from leave without pay shall receive an annual increment when they have completed twelve (12) months of service since the date they last received an annual increment.

(5) Service computation. In computing service for the purpose of determining annual increment eligibility, in those cases where an employee is changed from part time to full time, part-time service shall be counted in determining increment eligibility for a full-time employee. In those cases where an employee is changed from full time to part time, full-time service shall be counted in determining increment eligibility for a part-time employee.

Section 5. Educational Achievement Award. The participation of an appointing authority in the program for educational achievement awards is contingent upon adequate funding, to be determined by the appointing authority through the budgetary process, for all eligibles within the agency. Upon request of the appointing authority and subject to the approval of the commissioner, a permanent employee, with status may receive one (1) lump sum educational achievement award per fiscal year:

(1) For satisfactorily completing outside of work hours 260 classroom hours (or the equivalent as determined by the commissioner) of job related instruction in approved courses. Approved courses, must have been completed after a merit employee initially gained permanent status in state government. Employees shall not receive credit for courses taken while on educational leave, for hours paid for by the agency through tuition assistance, or for courses which previously counted toward an educational achievement award. The lump sum educational achievement award shall be ten (10) percent of the employee's annual base salary but not more than $2,500. The lump sum payment shall be granted only if the 260 classroom hours (or equivalent) have been completed within the past five (5) years prior to the effective date of the increase; or

(2) For receiving outside of work hours an approved high school diploma, high school equivalency certificate, or a passing score on the G.E.D. test. The approved diploma, certificate, or passing score must have been obtained on or after January 1, 1984 while in state service. Employees receiving an approved high school diploma, high school equivalency certificate, or a passing score on the G.E.D. test shall receive a lump sum educational achievement award of ten (10) percent of their annual base salary but not more than $2,500. A high school level educational achievement award shall not be granted to employees who present new credentials but have previously:

(a) Received a high school diploma, high school equivalency certificate, or a passing score on the G.E.D. test; or

(b) Completed college course work on the undergraduate or graduate level.

(3) To apply for an educational achievement award an employee shall submit the educational achievement request form DPT-10 or its equivalent, demonstrating completion of 260 classroom hours (or the equivalent together with official transcripts or grade reports for the courses completed) to the appointing authority or his designee. In compliance with the standards set forth in this regulation, the appointing authority may recommend the application for approval and may forward the documentation to the Commissioner of the Department of Personnel for final approval. A lump sum educational achievement award shall not be added to the employee's base salary or wages.

Section 6. Salary Schedule Adjustment. When the commissioner authorizes an adjustment of all grades in the pay schedule, employees who are below the new minimum rates shall have their salaries adjusted at least to the minimum rates

of their grades. The commissioner may authorize a salary increase for those employees who are at or above the minimum rate based upon the availability of funds. The percentage of such increase shall be determined by the commissioner and shall be uniform for all eligible employees.

Section 7. Class Reevaluation and Grade Adjustment. (1) Class reevaluation is the assignment of a different pay grade to a class based upon a change in relation to other classes or to labor market conditions.

(2) Change in pay grade. Whenever it becomes necessary to assign a class a different pay grade due to changes defined in Section 7(1) of this regulation, the commissioner may make a new or different pay grade applicable to a class of positions. Persons currently employed in positions of that class at the effective date of the change in pay grade shall have their salary placed at least at the minimum salary of the higher grade, and may be eligible for a salary adjustment under Section 3(7) of this regulation. In no event shall an employee's salary be placed at a rate less than he received prior to the change in the pay grade. Employees in a class assigned to a lower pay grade through class reevaluation shall retain their current salary.

(3) Recruitment difficulties. Whenever the commissioner determines that it is not possible to recruit qualified employees at the established entrance salary in a specific area or for a specific class, he may, at the request of the appointing authority, authorize the recruitment for a class of position at a higher rate in the pay grade, provided that all other employees in the same class of position in the same agency in the same county are adjusted in salary to the same rate.

Section 8. Paid Overtime. Overtime for which pay is authorized shall be in accordance with 101 KAR 2:100, Section 4, and the Fair Labor Standards Act 29 U.S.C. §201, et seq. and have the approval of the Commissioner of Personnel and the Secretary of the Finance and Administration Cabinet. Overtime payments shall not be added to base salary or wages.

Section 9. Maintenance and Maintenance Allowance. In each case where an employee or the employee and his family are provided with full or part maintenance, consisting of one (1) or more meals per day, lodging or living quarters, and domestic or other personal services, such maintenance shall be treated as part payment. The value of these services shall be deducted from the appropriate salary rate in accordance with a maintenance schedule developed by the commissioner after consultation with the appointing authority and the Secretary of the Finance and Administration Cabinet.

Section 10. Supplemental Shift Premium. Upon request of the appointing authority, the commissioner may authorize the payment of a supplemental shift premium for those job classifications in which employees are directed to work an evening or night shift. Once authorized, this premium shall apply to those employees directed to work an evening or night shift in a job classification for which the shift premium was approved. However, no employee shall receive a supplemental shift premium subsequent to a transfer to a position that is ineligible for a shift differential premium payment.

Section 11. Outstanding Merit Increase. (1) Subject to the approval of the commissioner and contingent upon the availability of sufficient budgeted funds, an appointing authority may within his sole discretion, recommend any permanent, full-time, classified employee with at least twelve (12) months continuous service for an outstanding merit increase equal to five (5) percent of his base pay. An outstanding merit increase shall consist of a lump sum payment which shall not be added to base pay.

(2) An employee may be recommended for an outstanding merit increase if:

(a) His job performance is judged to be outstanding by the appointing authority; or

(b) In the discretion of the appointing authority, the employee's acts or ideas have resulted in significant financial savings or improvement in services to the Commonwealth and its citizens.

(3) An employee shall not be eligible for recommendation for an outstanding merit increase if he has received an outstanding merit increase within the preceding twelve (12) months.

BOARD CERTIFICATE OF REVIEW:

This is to certify that pursuant to KRS 18A.110(5) the regulations listed below were submitted to the Personnel Board by the Commissioner of Personnel on June 28, 1990. The board at its special scheduled meeting on July 24, 1990, reviewed the department's proposals and made certain recommendations which were forwarded to the commissioner for his consideration. The regulations reviewed were as follows: 101 KAR 2:035 & E, 101 KAR 2:045 & E, 101 KAR 2:055 & E, 101 KAR 2:065 & E, 101 KAR 2:075 & E, 101 KAR 2:095 & E, 101 KAR 2:100 (amendment). This 24th day of July, 1990.

BENJAMIN J. HAYS, Vice-Chairman

(Note: Chairman Shake was not present at the 7/24/90 meeting. Vice-Chairman Hays chaired.)

THOMAS C. GREENWELL, Commissioner

APPROVED BY AGENCY: July 3, 1990

FILED WITH LRC: August 3, 1990 at 2 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 21, 1990 at 10 a.m. in Room 381 Capitol Annex, Frankfort, Kentucky 40601. Individuals interested in attending this hearing shall notify this agency in writing by September 16, 1990, five days prior to 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: Daniel F. Egbers, Managing Attorney, Department of Personnel, Capitol Annex, Room 377, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Daniel F. Egbers
(1) Type and number of entities affected: All appointing authorities and employees in the Executive Department subject to KRS Chapter 18A.
(a) Direct and indirect costs or savings to those affected:
1. First year: 32,000 employees eligible for 5% lump sum award. Average salary is $21,696. Conforms prior regulation to HB 799 Budget Bill.
2. Continuing costs or savings: $960,000 per year (average).
3. Additional factors increasing or decreasing costs (note any effects upon competition): Will increase or decrease based on salary levels of individuals recommended for award.
(b) Reporting and paperwork requirements: Minor processing of payroll and supporting documents.
(2) Effects on the promulgating administrative body: Processing of payroll and initiation of action for own employees.
(a) Direct and indirect costs or savings: Direct costs estimated at $960,000.
1. First year: $960,000 (estimated).
2. Continuing costs or savings: $960,000.
3. Additional factors increasing or decreasing costs: As salaries rise due to increments (5%) cost of program will increase.
(b) Reporting and paperwork requirements: Constant.
(3) Assessment of anticipated effect on state and local revenues: OMI program will generate taxable income.
(4) Assessment of alternative methods; reasons why alternatives were rejected: None. Regulation conforms to HB 799 of 1990 session.
(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: Program needed to establish meaningful employment incentives. Similar OMI program is created in 101 KAR 3:045 for unclassified service.
TIERING: Was tiering applied? Yes

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 includes 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" principal 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 than the federal mandate.

DEPARTMENT OF PERSONNEL

101 KAR 2:045. Applications, qualifications and examinations.

RELATES TO: KRS 18A.030, 18A.110, 18A.120
STATUTORY AUTHORITY: KRS Chapter 13A, 18A.030, 18A.110, 18A.150
NECESSITY AND FUNCTION: KRS 18A.110 requires the Commissioner of Personnel to promulgate comprehensive administrative regulations, consistent with the provisions of KRS Chapter 18A, which govern open competitive exams to test the relative fitness of applicants and for the

rejection of candidates or eligibles who fail to meet reasonable requirements of the commissioner. This regulation is necessary to implement these statutory requirements and to assure uniformity in administering exams and replaces 101 KAR 2:040.

Section 1. Notices of Examinations. Examinations for entrance to the classified service shall be conducted on an open-competitive basis. For those job classifications in which there is expected to be a considerable and recurring need of eligibles, the commissioner shall establish a recruitment program which shall be both positive and continuous. Under such plan, applications may be accepted at any time and examinations held whenever and wherever the commissioner deems it desirable for the service. For those job classifications for which continuous recruitment is not needed, special announcements will be used. Eligibles will be listed in rank order of score irrespective of date on which the examination was taken. Notice of examinations shall be announced publicly fifteen (15) days prior to opening and may be distributed to public officials, employment service offices, newspapers, radio stations, educational institutions, professional and vocational societies, other media and such other individuals and organizations as the commissioner may deem expedient. The public notice of examination shall specify the title and minimum salary of the job classifications; the minimum qualifications required; the final date on which application will be received; the relative weights to be assigned to different parts of the examination; and all pertinent information and requirements.

Section 2. Minimum Qualifications for Filing. Open-competitive examinations shall be open to all applicants who meet the standards or requirements fixed by the commissioner with regard to education, experience, age, physical condition, and such other factors as may be held to relate to the ability of the candidate to perform with reasonable efficiency the duties of the position.

Section 3. Filing Applications. (1) All applications shall be made on forms prescribed by the commissioner. Such application may require information concerning personal characteristics, education, experience, references, and other pertinent information. When the nature of the work is such that age limits are necessary, the commissioner after consultation with the appointing authority may approve the age limits, which shall be stated in the examination announcement. All applications shall be signed and the truth of the statements contained therein certified by such signatures. Applicants must meet the minimum qualifications specified in announcements as to education and experience, but in no case shall admittance to the examinations constitute assurance of a passing grade.

(2) For those job classifications for which there is to be continuous recruitment, a statement shall be included in the announcement to the effect that applications will be received until further notice.

(3) For those job classifications for which continuous recruitment is not needed, special announcement bulletins will be used. Applicants shall have fifteen (15) calendar days to apply for these special openings. The applications will be processed and those applicants who meet the minimum requirements will be notified of the testing dates.

Section 4. Advance Examinations. Any applicant who does not meet minimum requirements as to education but who will meet these requirements as a result of the completion of further educational work which he has scheduled for the six (6) months following the date of receipt of application, may be allowed to take the examination at the discretion of the commissioner. An applicant taking the examination under this provision shall have his or her name entered on the register up to thirty (30) days prior to completing the educational requirements.

Section 5. Character of Examinations. Examinations shall be practical in nature, constructed to reveal the capacity of the candidate for the particular job classification for which he is competing and his general background and related knowledge, and shall be rated impartially. The commissioner may use a rating of education and experience and any test of capacity, knowledge, manual skill, character, personal traits, or physical fitness which in his judgment serves the need to discover the relative fitness of applicants.

Section 6. Conduct of Examinations. (1) Examinations shall be conducted in as many places in the Commonwealth as are found convenient for applicants and practicable for administration.

(2) The commissioner may designate monitors in various parts of the Commonwealth to take charge locally of examinations under instructions prescribed by him, provide for the compensation of such monitors, and make arrangements for the use of public buildings in which to conduct the examinations.

(3) Retest procedures.

(a) For open continuous testing an applicant may be admitted to the same exam or its alternate no more than two (2) times within a regular workweek.

(b) For open continuous testing an applicant shall not be permitted to take the same exam or its alternate more than twelve (12) times in a twelve (12) month period beginning with the original date such test is taken.

(c) Retest procedures for examinations listed on special announcements shall be stated on the bulletin.

(d) An eligible who is removed from a register, who fails to make himself available to an appointing authority for consideration or who declines appointment by an appointing authority shall not be allowed to retest for the job class from which removed for six (6) months from the date of removal unless he has been restored for reasons satisfactory to the commissioner or in accordance with the decision of the board on appeal.

Section 7. Rating Examinations. The commissioner shall determine the rating or standing of applicants on the register for all examinations. Such final rating shall be based upon a weighted average of the various parts of

the total examination. All applicants for the same job classification shall be accorded uniform and equal treatment in all phases of the examination procedure.

Section 8. Rating Education and Experience. (1) When the rating of education and experience forms a part of the total examination, the commissioner shall determine a procedure for the evaluation of the education and experience qualifications of the applicants. The formula used in appraisal shall give due regard to recency and quality as well as quantity of experience and the pertinency of the education.

(2) The commissioner shall investigate the candidate's educational record form. The commissioner may investigate the candidate's work history. If the results of this investigation bring out information affecting the rating of education and experience, the commissioner may rate the candidate accordingly or make the necessary revision of the rating and so notify the candidate.

(3) The selection method for the following classes is 100% qualifying. If the applicant meets the minimum requirements his name shall be placed on the appropriate register.

TITLE CODE	JOB CLASSIFICATION
1001	Laborer
1002	Laborer Trainee
1003	Janitor
1005	Janitor Supervisor
1006	Technical Services Trainee
1007	Blind Industries Worker
1014	Watchman
1022	Maintenance Worker
1036	Highway Laborer
1037	Light Equipment Operator
1038	Driver of Physically Disabled
1040	Heavy Equipment Operator Trainee
1069	Resource Recovery Worker
1078	Water and Sewer Plant Operator
1079	Water and Sewer Plant Operator Senior
1081	Airport Flightline Attendant
1087	Lockmaster
1088	Lockmaster Coordinator
1103	Cosmetologist
1121	Stationary Fireman Trainee
1143	Plumber
1145	Plumber Supervisor
1146	Electrician Trainee
1301	Kitchen Worker
1303	Counter Attendant
1305	Serving Attendant
1307	Cook Helper
1308	Cook
1310	Cook Senior
1343	Dietician Clinical
1345	Dietician Chief
1347	Dietetic Administrator Institional
1401	Laundry Worker
1403	Laundry Worker Senior
1501	Park Laborer
1503	Park Worker
1522	Blacksmith/Farrier
1541	Parks Golf Professional
1629	Illustrator
1701	Automotive Mechanic Trainee
1731	Aviation Mechanic
1733	Aviation Mechanic/Inspector
1735	Aviation Mechanic/Inspector Chief
2151	Pilot
2153	Pilot Chief
2155	Helicopter Pilot
2157	Helicopter Pilot Chief
2433	Polygraph Examiner
2434	Polygraph Examiner Trainee
2441	Hospital Security Officer
2476	Law Enforcement Training Instructor-Legal
3007	Grader - Fruit and Vegetable
3018	Agricultural Veterinarian
3130	Explosives and Blasting Inspector/Instructor
3131	Explosives and Blasting Inspector/Instructor Senior
3133	Mine Safety Instructor
3135	Electrical Mining Instructor
3139	Mine Inspector
3143	Mine Inspector Supervisor
3147	Mine Safety Analyst
3149	Mining Inspector/Examiner Chief
3207	Electrical Inspector
3209	Electrical Inspection Supervisor
3211	Elevator Inspector Trainee
3212	Elevator Inspector
3229	Industrialized Building Systems Specialist
3246	Plumbing Inspection Reviewer
3248	Plumbing Inspector
3250	Plumbing Inspector Senior
3252	Plumbing Inspection Program Supervisor
3256	Boiler Inspector
3258	Boiler Inspector Senior
3260	Boiler Inspector Chief
3341	Pharmacy Education Coordinator
3343	Pharmacy and Drug Inspector
3535	Actuary
3806	Horse Identifier
3807	Horse Identification Supervisor
3836	Racing Veterinarian
3837	Racing Veterinarian Senior
3839	Racing Veterinarian Chief
3840	Assistant State Steward
3841	Associate State Steward
4001	Laboratory Aide
4005	Electroencephalographic Technician
4007	Radiographer
4008	Radiographer Senior
4031	Pharmacist
4032	Pharmacist Senior
4034	Pharmacist Supervisor
4036	Pharmacist Consultant
4038	Pharmacy Services Program Manager
4044	Chemist Chief
4046	Chemistry Laboratory Manager
4080	Forensic Anthropologist
4131	Recreation Aide
4143	Audiologist I
4144	Audiologist II
4146	Speech Clinician
4148	Speech Pathologist I
4149	Speech Pathologist II
4151	Speech and Hearing Regional Coordinator
4153	Speech and Hearing Administrator
4156	Occupational/Physical Therapist Trainee
4158	Occupational Therapist
4160	Occupational Therapy Coordinator
4162	Occupational Therapy Supervisor
4164	Physical Therapist Assistant
4166	Physical Therapist
4168	Physical Therapist Coordinator
4170	Physical Therapist Supervisor
4203	Dental Assistant Certified
4205	Dental Hygienist
4207	Dentist
4209	Dental Program Administrator
4301	Patient Aide
4312	Licensed Practical Nurse

4314 Licensed Practical Nurse Senior
4315 Licensed Practical Nurse Supervisor/Coordinator
4321 Nurse Registered
4322 Charge Nurse
4323 Nurse Shift Supervisor
4324 Nurse Clinician
4325 Nurse Service Administrator
4327 Nurse Infirmary
4328 Advanced Registered Nurse Practitioner
4329 Nurse Medical Claims
4331 Nurse Consultant/Inspector
4333 Handicapped Children Nurse
4334 Handicapped Children Nurse Senior
4335 Handicapped Children Nurse Principal
4336 Handicapped Children Staff Development Coordinator
4337 Nurse Handicapped Children Program Administrator
4339 Nurse/Administrator
4341 Nursing Investigator
4342 Nursing Investigator Senior
4343 Nursing Education Consultant
4405 Certified Psychologist/Psychological Associate
4407 Certified Psychologist/Psychological Associate Chief
4409 Psychologist Licensed
4411 Psychologist Licensed Chief
4413 Psychologist Licensed Program Administrator
4503 Medical Epidemiologist
4506 Medical Examiner
4510 Medical Examiner Chief
4515 Physician B
4516 Physician
4517 Physician Senior
4520 Physician Chief
4526 Physician Consultant
4530 Physician Director
4555 Medical Specialist
4556 Medical Specialist Senior
4557 Medical Specialist Principal
4559 Medical Director
5021 Medical Records Technician
5023 Medical Records Administrator
5102 Interpreter
5103 Interpreter/Coordinator
5104 Lead Interpreter
5105 Vocational Education Instructor (various options)
5108 Industrial and Trade Instructor
5109 Industrial and Trade Teacher (various options)
5110 MSHA Instructor
5141 Education Teacher Rank III
5142 Education Teacher Rank II
5143 Education Teacher Rank I
5171 Orientation and Mobility Specialist I
5173 Orientation and Mobility Specialist II
5348 Vocational School Assistant Principal
5350 Vocational Education Center Principal
5352 Vocational School Principal
5391 KSB/KSD Support Services Officer III
5392 KSB/KSD Support Services Officer V
5394 KSB/KSD Teacher Supervisor V
5396 KSB/KSD Teacher Supervisor VI
6201 Support Services Aide
6203 Human Services Aide Trainee
6210 Human Services Trainee
6287 Chaplain
6288 Chaplain Chief
6311 Administrative Law Judge
7001 Transportation Landscape Architect
7025 Engineer-in-Training I
7026 Engineer-in-Training II
7037 Engineer
7039 Engineer Chief
7040 Capital Construction/Design Project Administrator Associate
7041 Capital Construction/Design Project Administrator I
7042 Capital Construction/Design Project Administrator II
7043 Capital Construction/Design Project Manager
7044 Environmental Engineer Consultant
7045 Environmental Engineer
7047 Environmental Engineer Chief
7048 Environmental Engineering Branch Manager
7049 Public Service Engineer Chief
7048 Environmental Engineering Branch Manager
7049 Public Service Engineer Chief
7051 Public Service Engineer Manager
7053 PSC Engineering Technical Associate
7072 Project Design Coordinator Senior
7073 Project Architect
7082 Chief Highway District Engineer's Assistant
7083 Chief Highway District Engineer
7085 Transportation Engineering Branch Manager
7086 Transportation Engineer Director
7088 Associate Assistant State Highway Engineer
7089 Assistant State Highway Engineer
7094 Transportation Engineer I
7095 Transportation Engineer II
7201 Nursery Aide
8109 Artist Senior
8112 Artist
9002 Clerical Trainee
9020 Clerical Assistant
9041 Micrographics Technician
9233 Meat and Food Inspector
9241 Purchasing Officer Pharmaceutical
9446 Financial, Investment and Forecasting Program Analyst
9450 Financial, Investment and Forecasting Program Specialist
9610 Management Trainee
9680 State Interpreter Administrator
9821 Attorney
9822 Attorney Senior
9823 Attorney Chief
9825 Attorney Principal
9826 Attorney Supervisor
9827 Assistant General Counsel/Attorney Manager
9831 Assistant Attorney General
9832 Assistant Attorney General Senior
9835 Assistant Attorney General Principal
9836 Assistant Attorney General Chief
9837 Assistant Attorney General Manager
9841 Assistant Public Advocate
9842 Assistant Public Advocate Senior
9843 Assistant Public Advocate Principal
9844 Assistant Public Advocate Chief
9845 Assistant Public Advocate Supervisor
9847 Assistant Public Advocate Manager
9860 PSC Hearing Examiner

Section 9. Oral Examinations. When an oral examination forms a part of the total examination for a position, the commissioner shall appoint one (1) or more oral examination panels as needed. An oral examination panel shall consist of three (3) or more members who shall be known to be interested in the improvement of public administration and in the selection of efficient government personnel of whom one (1) shall be technically familiar with the character of work in the position for which

the applicants will be examined. Whenever practicable, all candidates for the same job classification who qualify for the oral examination shall be rated by the same oral examination panel. A member of an oral examination panel shall disclose each instance in which he knows the applicant personally and may refrain from rating such applicant.

Section 10. Notice of Examination Results. Each competitor shall be notified of his final rating as soon as the rating of the examination has been completed. Eligibles shall be entitled to information concerning their relative position on the register upon request and presentation of proper identification.

Section 11. Adjustment of Errors. An error in the rating of an examination, if called to the attention of the commissioner within thirty (30) days after receipt by the applicant of the notice of examination results shall be corrected by the commissioner provided, however, that such corrections shall not invalidate any certification and appointment previously made.

Section 12. Special Examinations. Except in the case of an error in the examining of an applicant, no applicant shall be given a special examination unless the board by formal recorded action finds that the applicant's failure to take or complete an examination was due to circumstances entirely beyond the control of the applicant. The board's findings and recommendations shall be recorded in its minutes. No claim for a special examination shall be allowed unless it is filed in writing with the board within fifteen (15) days after the date of the original examination. Any special examination shall be constructed on a pattern similar to, and as extensive as, the original examination. Any such special examination shall not invalidate any certification or appointment previously made.

Section 13. Examination Records. The commissioner shall be responsible for the maintenance of all records pertinent to examination programs. Applications and other necessary examination records shall be kept during the life of the register.

BOARD CERTIFICATE OF REVIEW:
This is to certify that pursuant to KRS 18A.110(5) the regulations listed below were submitted to the Personnel Board by the Commissioner of Personnel on June 28, 1990. The board at its special scheduled meeting on July 24, 1990, reviewed the department's proposals and made certain recommendations which were forwarded to the commissioner for his consideration. The regulations reviewed were as follows: 101 KAR 2:035 & E, 101 KAR 2:045 & E, 101 KAR 2:055 & E, 101 KAR 2:065 & E, 101 KAR 2:075 & E, 101 KAR 2:095 & E, 101 KAR 2:100 (amendment). This 24th day of July, 1990.
BENJAMIN J. HAYS, Vice-Chairman
(Note: Chairman Shake was not present at the 7/24/90 meeting. Vice-Chairman Hays chaired.)

THOMAS C. GREENWELL, Commissioner
APPROVED BY AGENCY: July 3, 1990
FILED WITH LRC: August 3, 1990 at 2 p.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 21, 1990 at 10 a.m. in Room 381 Capitol Annex, Frankfort, Kentucky 40601. Individuals interested in attending this hearing shall notify this agency in writing by September 16, 1990, five days prior to 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: Daniel F. Egbers, Managing Attorney, Department of Personnel, Capitol Annex, Room 377, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Daniel F. Egbers
(1) Type and number of entities affected: All appointing authorities and employees in the Executive Department subject to KRS Chapter 18A.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: No substantive change.
(2) Effects on the promulgating administrative body: No substantive change.
(a) Direct and indirect costs or savings: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: No substantive change.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative available.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: None
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: No
(6) Any additional information or comments: Section 8 reflects and lists positions that are 100% qualifying.
TIERING: Was tiering applied? Yes

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 includes 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" principal 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 than the federal mandate.

DEPARTMENT OF PERSONNEL

101 KAR 2:055. Registers and job bank service.

RELATES TO: KRS 18A.005, 18A.110, 18A.120

STATUTORY AUTHORITY: KRS Chapter 13A, 18A.030, 18A.040, 18A.110

NECESSITY AND FUNCTION: KRS 18A.110 requires the Commissioner of Personnel to promulgate comprehensive administrative regulations, consistent with the provisions of KRS Chapter 18A, which govern the establishment of eligible lists for appointment and for the rejection of candidates or eligibles who do not meet reasonable selection requirements of the commissioner. This regulation is necessary to comply with these statutory requirements and replaces 101 KAR 2:050.

Section 1. Notification of Register Vacancies. It shall be the duty of the appointing authorities to notify the commissioner as far in advance as possible of vacancies in full-time or part-time classified positions which may occur in the agencies.

Section 2. Use of Related Registers. The commissioner shall select registers from job classifications for which the minimum qualifications are comparable to or higher than those required for the job classification in which the vacancy exists. The commissioner may, if appropriate, rerate training and experience on the basis of the minimum qualification required for the job classification in which the vacancy exists.

Section 3. Duration of Registers. When a register becomes so depleted that the preparation of usable certificates for a major portion of the imminent vacancies of the job classification is impracticable, the register shall be considered exhausted. The register which has become exhausted shall be considered expired upon the administration of a superseding examination and the establishment of a register on the basis of that examination. When a register becomes exhausted, the commissioner shall send to each eligible remaining on such register a notification prior to the administration of a superseding examination.

Section 4. Replenishment of Registers. If the commissioner determines that a register, although not exhausted, is inadequate for the filling of anticipated vacancies, he may announce an open competitive examination for the purpose of replenishing such register.

Section 5. Promotional Register. At the request of the appoint authority, the commissioner shall prepare a register of status employees interested in promotion to a full-time or part-time classified position who meet the minimum requirements and has obtained a passing grade on the competitive promotional examination. The names of such employees shall be placed on the register in the order of their final ratings, starting with the highest. The register shall be certified to agencies for their consideration in filling vacancies from a promotional register.

Section 6. Full-time or Part-time Reemployment

Registers. The commissioner shall prepare reemployment registers.

Section 7. Job Bank Service. In order to facilitate the internal mobility of state employees, the Department of Personnel shall maintain a job bank service. The job bank is a list of eligible state employees with merit status who wish to be considered for particular job classes. The listing shall accompany competitive register certificates to inform appointing authorities of eligible state employee candidates who are available for internal mobility. A state employee with merit status who wishes to be considered for the job bank shall submit an application to the Department of Personnel. The Department of Personnel shall review application for eligibility, minimum qualifications and testing requirements.

BOARD CERTIFICATE OF REVIEW:

This is to certify that pursuant to KRS 18A.110(5) the regulations listed below were submitted to the Personnel Board by the Commissioner of Personnel on June 28, 1990. The board at its special scheduled meeting on July 24, 1990, reviewed the department's proposals and made certain recommendations which were forwarded to the commissioner for his consideration. The regulations reviewed were as follows: 101 KAR 2:035 & E, 101 KAR 2:045 & E, 101 KAR 2:055 & E, 101 KAR 2:065 & E, 101 KAR 2:075 & E, 101 KAR 2:095 & E, 101 KAR 2:100 (amendment). This 24th day of July, 1990.

BENJAMIN J. HAYS, Vice-Chairman

(Note: Chairman Shake was not present at the 7/24/90 meeting. Vice-Chairman Hays chaired.)

THOMAS C. GREENWELL, Commissioner

APPROVED BY AGENCY: July 3, 1990

FILED WITH LRC: August 3, 1990 at 2 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 21, 1990 at 10 a.m. in Room 381 Capitol Annex, Frankfort, Kentucky 40601. Individuals interested in attending this hearing shall notify this agency in writing by September 16, 1990, five days prior to 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: Daniel F. Egbers, Managing Attorney, Department of Personnel, Capitol Annex, Room 377, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Daniel F. Egbers

(1) Type and number of entities affected: All appointing authorities and employees in the Executive Department subject to KRS Chapter 18A.

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

1. First year: None
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: No substantive change.

(2) Effects on the promulgating administrative body: No substantive change.

(a) Direct and indirect costs or savings: None

1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No substantive change.

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

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

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

(a) Necessity of proposed regulation if in conflict: None

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: No

(6) Any additional information or comments: Clarifies the function of the job bank service to facilitate internal mobility.

TIERING: Was tiering applied? Yes

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 includes 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" principal 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 than the federal mandate.

DEPARTMENT OF PERSONNEL

101 KAR 2:065. Certification and selection of eligibles for appointment.

RELATES TO: KRS 18A.030, 18A.110, 18A.165

STATUTORY AUTHORITY: KRS Chapter 13A, 18A.030, 18A.110

NECESSITY AND FUNCTION: KRS 18A.110 requires the Commissioner of Personnel to promulgate comprehensive administrative regulations, consistent with KRS Chapter 18A, which govern the establishment of eligible lists for appointment, and for consideration for appointment of persons whose scores are included in the five (5) highest scores on the exam. This regulation is necessary to comply with these statutory requirements and replaces 101 KAR 2:060.

Section 1. Request for Certification of Eligibles. To fill a vacancy by selection of an eligible from a register established on the basis of an open-competitive examination, the appointing authority shall submit a request for certification to the commissioner upon a prescribed form. This requisition may be for one (1) or more positions in the same class, in the same county, and shall indicate the number and identity of positions to be filled and the title of the job classification in which they have been allocated and specify all other pertinent information which the appointing authority and the commissioner deem necessary. The appointing authority shall make such request as far in advance as possible of the date the employee is to begin work.

Section 2. Certification of Eligibles. (1) Upon receipt of a requisition, the commissioner shall certify and submit in writing to the appointing authority the names of available persons eligible for the appointment. If one (1) position is involved, he shall certify and submit from the register for that job classification the names of the persons whose scores are included in the highest five (5) scores earned on the examination, providing the commissioner shall fix a reasonable maximum number of eligibles certified. If more than one (1) vacancy is involved, either in one (1) or more agencies, the commissioner shall certify sufficient additional names for the agencies' consideration in filling the total number of vacancies by procedures to retain orderly consideration of eligibles; however, each appointment must be made from the eligibles with the five (5) highest scores. Scores shall be considered in whole numbers. If the register, established as a result of the open-competitive examination for a specific class, is exhausted, the commissioner shall certify and submit names in accordance with the above procedure. The life of a certificate during which action may be taken shall be forty-five (45) days from the date of issue unless otherwise specified on the certification. Any appointment made from such certificate during that time shall not be subject to any change in the condition of the register taking place during that period.

(2) Any employee who has been dismissed for cause or who has resigned while charges for dismissal for cause were pending and who seeks further employment with the state shall not be certified to the agency from which separated unless the agency requests such certification.

Section 3. Availability. An eligible may at any time during the life of a register have himself listed as available or not available for appointment to a position of that job classification in any county or counties in the state by filing notice to such effect with the commissioner.

Section 4. Selective Certification. (1) The appointing authority may specify in writing requirements of particular experience, education, or skill when he deems such requirements necessary for a position. If, after investigation of the duties and responsibilities of the position, the commissioner finds the particular experience, education, or skill essential for successful performance he may certify in order of rank on the register the names of those persons who possess those qualifications specified. If, in certifying the names of such eligibles, the commissioner finds there are fewer than five (5) such eligibles, he shall complete the certificate by adding, after the names of such eligibles, the names of other eligibles available for the appointment in the order of their respective rank on the register.

(2) The appointing authority may specify in writing exceptional requirements of particular characteristics when he deems such requirements necessary for a position. If, after investigation of the duties and responsibilities of the position, the commissioner finds the

exceptional requirement of the characteristic essential for successful performance, he may certify in order of rank on the register the names of those persons who possess the qualifications specified. If, in certifying the names of such eligibles, the commissioner finds there are fewer than five (5) such eligibles, he shall complete the certificate by adding, after the names of such eligibles, the names of other eligibles available for the appointment in the order of their respective rank on the register.

Section 5. Selection. The final selection by the appointing authority shall be reported in writing to the commissioner. At the same time, the appointing authority shall indicate the disposition of the other names listed on the certificate and shall certify to the commissioner the nonavailability of any eligibles passed over for that reason.

Section 6. Certification from the Promotional Register. Whenever a vacancy is to be filled from a promotional register established as a result of a competitive examination, the commissioner shall certify the names of eligibles in accordance with 101 KAR 2:050, Section 5.

Section 7. Certification of Names from the Reemployment Register. Whenever a vacancy is to be filled from a reemployment register, the commissioner shall certify the names of eligibles.

BOARD CERTIFICATE OF REVIEW:

This is to certify that pursuant to KRS 18A.110(5) the regulations listed below were submitted to the Personnel Board by the Commissioner of Personnel on June 28, 1990. The board at its special scheduled meeting on July 24, 1990, reviewed the department's proposals and made certain recommendations which were forwarded to the commissioner for his consideration. The regulations reviewed were as follows: 101 KAR 2:035 & E, 101 KAR 2:045 & E, 101 KAR 2:055 & E, 101 KAR 2:065 & E, 101 KAR 2:075 & E, 101 KAR 2:095 & E, 101 KAR 2:100 (amendment). This 24th day of July, 1990.

BENJAMIN J. HAYS, Vice-Chairman

(Note: Chairman Shake was not present at the 7/24/90 meeting. Vice-Chairman Hays chaired.)

THOMAS C. GREENWELL, Commissioner

APPROVED BY AGENCY: July 3, 1990

FILED WITH LRC: August 3, 1990 at 2 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 21, 1990 at 10 a.m. in Room 381 Capitol Annex, Frankfort, Kentucky 40601. Individuals interested in attending this hearing shall notify this agency in writing by September 16, 1990, five days prior to 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: Daniel F. Egbers, Managing Attorney, Department of Personnel, Capitol Annex, Room 377, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Daniel F. Egbers

(1) Type and number of entities affected: All appointing authorities and employees in the Executive Department subject to KRS Chapter 18A.

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

1. First year: None

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements: No substantive change.

(2) Effects on the promulgating administrative body: No substantive change.

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No substantive change.

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

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

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

(a) Necessity of proposed regulation if in conflict: None

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: No

(6) Any additional information or comments: Prior Section 4(3) dealing with employment program participation is deleted.

TIERING: Was tiering applied? Yes

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 includes 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" principal 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 than the federal mandate.

DEPARTMENT OF PERSONNEL

101 KAR 2:075. Vacancies, detail to special duty and temporary overlap.

RELATES TO: KRS 18A.005, 18A.110, 18A.115, 18A.120

STATUTORY AUTHORITY: KRS Chapter 13A, 18A.030, 18A.110

NECESSITY AND FUNCTION: KRS 18A.110 requires the Commissioner of Personnel to promulgate comprehensive administrative regulations, consistent with KRS Chapter 18A, which govern the various types of appointments, such as probationary, emergency, provisional, reinstatement, and for such other regulations, not inconsistent with KRS Chapter 18A, as may be proper and necessary. This regulation is necessary to comply with these statutory requirements and replaces 101 KAR 2:070.

Section 1. Filling of Vacancies. All vacancies in the classified service which are not filled by promotion, transfer, or demotion, shall be filled by probationary appointment, reemployment, reinstatement, emergency appointment or provisional appointment.

Section 2. Detail to Special Duty. When the services of a permanent employee are needed in a position within an agency other than the position to which regularly assigned, the employee may be detailed to that position for a period not to exceed one (1) year with prior approval of the commissioner. For detail to special duty the commissioner may waive the minimum requirements when requested by the appointing authority in writing.

Section 3. Temporary Overlap. With the prior approval of the commissioner, an agency may place an employee for training purposes or in the best interest of the state service, in a position currently occupied by another employee for a period not to exceed sixty (60) calendar days.

BOARD CERTIFICATE OF REVIEW:

This is to certify that pursuant to KRS 18A.110(5) the regulations listed below were submitted to the Personnel Board by the Commissioner of Personnel on June 28, 1990. The board at its special scheduled meeting on July 24, 1990, reviewed the department's proposals and made certain recommendations which were forwarded to the commissioner for his consideration. The regulations reviewed were as follows: 101 KAR 2:035 & E, 101 KAR 2:045 & E, 101 KAR 2:055 & E, 101 KAR 2:065 & E, 101 KAR 2:075 & E, 101 KAR 2:095 & E, 101 KAR 2:100 (amendment). This 24th day of July, 1990.

BENJAMIN J. HAYS, Vice-Chairman

(Note: Chairman Shake was not present at the 7/24/90 meeting. Vice-Chairman Hays chaired.)

THOMAS C. GREENWELL, Commissioner

APPROVED BY AGENCY: July 3, 1990

FILED WITH LRC: August 3, 1990 at 2 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 21, 1990 at 10 a.m. in Room 381 Capitol Annex, Frankfort, Kentucky 40601. Individuals interested in attending this hearing shall notify this agency in writing by September 16, 1990, five days prior to 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: Daniel F. Egbers, Managing Attorney, Department of Personnel, Capitol Annex, Room 377, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Daniel F. Egbers
(1) Type and number of entities affected: All appointing authorities and employees in the Executive Department subject to KRS Chapter 18A.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: No substantive change.
(2) Effects on the promulgating administrative body: No substantive change.
(a) Direct and indirect costs or savings: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: No substantive change.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative available.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: None
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: No
(6) Any additional information or comments: No
TIERING: Was tiering applied? Yes

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 includes 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" principal 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 than the federal mandate.

DEPARTMENT OF PERSONNEL

101 KAR 2:095. Classified service regulations.

RELATES TO: KRS 18A.030, 18A.110
STATUTORY AUTHORITY: KRS Chapter 13A, 18A.030, 18A.110
NECESSITY AND FUNCTION: KRS 18A.110 requires the Commissioner of Personnel to promulgate comprehensive administrative regulations consistent with KRS Chapter 18A, which govern for the maintenance of employee records, the maintenance of other records and reports in the department, and for other conditions of employment. This regulation is necessary to comply with these statutory requirements and replaces 101 KAR 2:090.

Section 1. General Provisions. Except as otherwise provided in these regulations, the tenure of an employee with status shall be during good behavior and the satisfactory performance of his duties.

Section 2. Attendance; Hours of Work. (1) The number of hours full-time employees in state offices in Frankfort are required to work shall be uniform for all positions unless specified

otherwise by the appointing authority or the statutes.

(2) The normal work day shall be from 8 a.m. to 4:30 p.m., local time, Monday through Friday.

(3) An appointing authority may require employees to work hours and work days other than normal including inclement weather schedules if it is in the best interest of the agency.

(4) Employees who work for agencies which require more than one (1) shift or seven (7) days a week operation may be reassigned from one shift to another and from one post to another or alternate days off by the agency to meet staffing requirements or to maintain security or provide essential services of the agency. The employee is required to give reasonable notice in advance of absence from a work station.

Section 3. Work Station. Each employee shall be assigned a work station by the appointing authority. A work station may be changed to better meet the needs of the agency. An employee may be temporarily assigned to a different work station in a different county for a period of up to sixty (60) calendar days, provided that such employee is reimbursed for his travel expenses in accordance with regulatory provisions and the appointing authority notifies the employee in writing prior to the effective date of the action. Nothing within this regulation shall be construed as prohibiting an appointing authority from assigning an employee to work in a different site within the county of employment.

Section 4. Dual Employment. No employee holding a full-time position with the Commonwealth may hold another state position except upon recommendation of the appointing authority and the written approval of the commissioner. A copy of such written approval and a statement of the reasons therefor shall be transmitted to the Governor and the Director of the Legislative Research Commission. A complete list of all employees holding more than one (1) state position shall be furnished to the Legislative Research Commission quarterly by the commissioner.

Section 5. Resignations. An employee who desires to terminate his service with the state shall submit a written resignation to the appointing authority. Resignations shall be submitted at least fourteen (14) calendar days before the final working day. A copy of an employee's resignation shall be attached to the advice effecting the separation and be filed in the employee's service record in the department. Failure of an employee to give fourteen (14) calendar days notice with his resignation may result in forfeiture of accrued annual leave.

Section 6. Records and Reports. (1) The commissioner shall prescribe personnel action forms which appointing authorities shall use to report such personnel actions and status changes as he may require. The commissioner shall inform the appointing authorities which personnel actions and status changes must be reported to him. The appointing authority shall provide a copy of a personnel action form to the employee affected by such action.

(2) The commissioner shall maintain a leave record showing for each employee:

(a) Annual leave earned, used and unused;

(b) Sick leave earned, used and unused;

(c) Compensatory leave earned, used and unused; and

(d) Special leave or any other leave with or without pay. Such record shall be documentary evidence to support and justify authorized leave of absence with pay.

(3) The commissioner shall prepare and maintain a record of all employees showing for each employee his name, address, title of position, salary rate, changes in status, transfer, sick leave, annual leave and compensatory leave.

BOARD CERTIFICATE OF REVIEW:

This is to certify that pursuant to KRS 18A.110(5) the regulations listed below were submitted to the Personnel Board by the Commissioner of Personnel on June 28, 1990. The board at its special scheduled meeting on July 24, 1990, reviewed the department's proposals and made certain recommendations which were forwarded to the commissioner for his consideration. The regulations reviewed were as follows: 101 KAR 2:035 & E, 101 KAR 2:045 & E, 101 KAR 2:055 & E, 101 KAR 2:065 & E, 101 KAR 2:075 & E, 101 KAR 2:095 & E, 101 KAR 2:100 (amendment). This 24th day of July, 1990.

BENJAMIN J. HAYS, Vice-Chairman

(Note: Chairman Shake was not present at the 7/24/90 meeting. Vice-Chairman Hays chaired.)

THOMAS C. GREENWELL, Commissioner

APPROVED BY AGENCY: July 3, 1990

FILED WITH LRC: August 3, 1990 at 2 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 21, 1990 at 10 a.m. in Room 381 Capitol Annex, Frankfort, Kentucky 40601. Individuals interested in attending this hearing shall notify this agency in writing by September 16, 1990, five days prior to 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: Daniel F. Egbers, Managing Attorney, Department of Personnel, Capitol Annex, Room 377, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Daniel F. Egbers

(1) Type and number of entities affected: All appointing authorities and employees in the Executive Department subject to KRS Chapter 18A.

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

1. First year: None

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements: No substantive change.

(2) Effects on the promulgating administrative body: No substantive change.

(a) Direct and indirect costs or savings: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: No substantive change.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative available.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: None
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: No
(6) Any additional information or comments: No
TIERING: Was tiering applied? Yes

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 includes 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" principal 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 than the federal mandate.

DEPARTMENT OF PERSONNEL

101 KAR 3:045. Unclassified service; classification and compensation incentive systems.

RELATES TO: KRS 18A.155
STATUTORY AUTHORITY: KRS Chapter 13A, 18A.155
NECESSITY AND FUNCTION: KRS 18A.155 requires the Commissioner of Personnel to submit to the Governor proposed administrative regulations for persons in positions enumerated in KRS 18A.115(1)(g), (h), (i), (j), (k), (p), (u) and (v). KRS 18A.155 further provides that these regulations shall be approved by the Governor. Nothing herein shall be construed to preclude the optional use of regulations promulgated under this section on behalf of employees enumerated in paragraphs (a), (b), (d), (e) and (q) of subsection (1) of KRS 18A.155 and on behalf of members of state boards and commissions who work on a full-time, salaried basis. This regulation complies with and implements this statutory provision and replaces 101 KAR 3:040.

Section 1. Classification Plan. (1) The commissioner shall, after consultation with the appointing authorities, prepare and recommend to the Governor a classification plan for adoption. The plan shall be based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for and the same schedule of pay may be equitably applied to all positions in the same class. Each position shall be allocated to its proper class in the classification plan after consultation with appointing authorities. The classification plan shall include for each class of position an appropriate title, description of duties and responsibilities, and the required education, experience and other qualifications.
(2) The principles and provisions of 101 KAR

2:020 shall apply to positions in the unclassified service.

Section 2. Compensation Plan. (1) After consultation with appointing authorities and the Secretary of the Finance and Administration Cabinet, develop a pay plan for all aforementioned employees in the unclassified service, taking into account such factors as:

(a) The relative levels of duties and responsibilities of various classes of positions;

(b) Rates paid for comparable positions elsewhere; and

(c) The state's financial resources.

Such pay plan shall become effective only after it has been approved by the Governor after submission to him by the commissioner through the Secretary of the Department of Finance. Amendments to the pay plan may be made in the same manner. Each employee shall be paid at one (1) of the rates set forth in the pay plan for the position in which he is employed.

(2) With the exception of the provision relating to probationary increments, and outstanding merit increases under 101 KAR 3:045, the principles and provisions of 101 KAR 2:035 shall apply to employees and positions in the unclassified service. An employee in the unclassified service who completes the initial six (6) month period following appointment with satisfactory performance may be granted a statutory increment at the beginning of the month following completion of such period.

(a) An employee who was eligible for but did not receive a five (5) percent salary advancement as the result of any of the following actions: promotional increase, reallocation, or class grade changes, on or after January 3, 1986, may have his salary adjusted upon request by the appointing authority and approval by the commissioner. In no case may the salary adjustment be made retroactive to the original effective date but shall be granted on the first of the month following approval of the increase.

(b) Inasmuch as the appointing authority has the option of not providing salary increases under this section, an eligible employee whose salary is not adjusted is not considered to have been penalized and therefore shall have no basis for appeal.

(3) Physicians, employed as such and pursuant to KRS 64.655, are exempted from the provisions of 101 KAR 2:035, Section 1, and may be appointed to any rate within the pay range when justified in writing by the appointing authority and approved by the commissioner.

Section 3. Educational Achievement Award. Upon request of the appointing authority and subject to the approval of the commissioner:

(1) An employee may receive one (1) lump sum educational achievement award per fiscal year for satisfactorily completing outside of work hours, 260 classroom hours (or the equivalent as determined by the commissioner) of job related instruction in approved courses. Approved courses must have been completed after an employee initially served six (6) months in state government. Employees shall not receive credit for hours taken while on educational leave, for hours paid for by the agency through tuition assistance, or for hours which previously counted toward an educational achievement award. The lump sum educational achievement award shall be ten (10) percent of the employee's annual base salary but not more than $2,500. The lump sum payment shall be granted only if the 260 classroom hours (or equivalent) have been completed within the past five (5) years prior to the effective date of the increase; or

(2) An employee may receive one (1) lump sum educational achievement award for earning an approved diploma, high school equivalency certificate, or a passing score on the G.E.D. test. The approved high school diploma, certificate, or passing score shall have been obtained by the state employee on or after January 1, 1984 while in state service. Employees receiving an approved high school diploma, high school equivalency certificate, or a passing score on the G.E.D. test shall receive a lump sum educational achievement award of ten (10) percent of their annual base salary but not more than $2,500. A high school level educational achievement award shall not be granted to employees who present new credentials but have previously:

(a) Received a high school diploma, high school equivalency certificate, or a passing score on the G.E.D. test; or

(b) Completed college course work on the undergraduate or graduate level.

(3) To apply for an educational achievement award an employee shall submit supporting documentation to the appointing authority or his designee a DPT Form 10 or its equivalent, demonstrating completion of 260 classroom hours (or the equivalent) together with official transcripts or grade reports for the courses completed. In compliance with the standards set forth in this section, the appointing authority may recommend the application for approval and may forward the documentation to the Commissioner of the Department of Personnel for final approval.

Section 4. Outstanding Merit Increase. (1) Subject to the approval of the commissioner and contingent upon the availability of sufficient budgeted funds, an appointing authority may within his sole discretion, recommend any full-time, unclassified employee whose service credit began prior to July 1, 1987 with at least twelve (12) months continuous service for an outstanding merit increase equal to three (3) percent of his base pay. An outstanding merit increase shall consist of a lump sum payment which shall not be added to base pay.

(2) An employee may be recommended for an outstanding merit increase if:

(a) His job performance is judged to be outstanding by the appointing authority; or

(b) In the discretion of the appointing authority, the employee's acts or ideas have resulted in significant financial savings or improvement in services to the Commonwealth and its citizens.

(3) An employee shall not be eligible for recommendation for an outstanding merit increase if he has received an outstanding merit increase within the preceding twelve (12) months.

BOARD CERTIFICATE OF REVIEW:

This is to certify that pursuant to KRS 18A.110(5) the regulations listed below were submitted to the Personnel Board by the Commissioner of Personnel on June 28, 1990. The board at its special scheduled meeting on July

24, 1990, reviewed the department's proposals and made certain recommendations which were forwarded to the commissioner for his consideration. The regulations reviewed were as follows: 101 KAR 2:035 & E, 101 KAR 2:045 & E, 101 KAR 2:055 & E, 101 KAR 2:065 & E, 101 KAR 2:075 & E, 101 KAR 2:095 & E, 101 KAR 2:100 (amendment). This 24th day of July, 1990.

BENJAMIN J. HAYS, Vice-Chairman

(Note: Chairman Shake was not present at the 7/24/90 meeting. Vice-Chairman Hays chaired.)

WALLACE G. WILKINSON, Governor
THOMAS C. GREENWELL, Commissioner
APPROVED BY AGENCY: July 3, 1990
FILED WITH LRC: August 3, 1990 at 2 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 21, 1990 at 10 a.m. in Room 381 Capitol Annex, Frankfort, Kentucky 40601. Individuals interested in attending this hearing shall notify this agency in writing by September 16, 1990, five days prior to 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: Daniel F. Egbers, Managing Attorney, Department of Personnel, Capitol Annex, Room 377, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Daniel F. Egbers

(1) Type and number of entities affected: All appointing authorities and nonmerit employees in the Executive Department subject to KRS Chapter 18A.

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

1. First year: 32,000 employees eligible for 5% lump sum award. Average salary is $20,000. Conforms prior regulation to HB 799 Budget Bill.

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: None. Regulation conforms to HB 799 of 1990 session.

(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: Program needed to establish meaningful employment incentives. Similar OMI program is created in 101 KAR 2:035 for classified service.

TIERING: Was tiering applied? Yes

REVENUE CABINET
Department of Administrative Services

103 KAR 17:041. Tax deferral for combat zone service.

RELATES TO: KRS 141.215, 141.990
STATUTORY AUTHORITY: KRS Chapter 13A

NECESSITY AND FUNCTION: To interpret the individual income tax law as it applies to a special deferral of the tax return and tax payment due date for certain military and civilian employees of the United States government.

Section 1. General. A Kentucky resident on active service with the United States Army, Navy, Marines, Air Force, Coast Guard, or Public Health Service may defer filing an income tax return and the payment of the tax, which would otherwise become due, while serving in a combat zone designated by presidential proclamation and for twelve (12) months after such service. Military personnel, not serving in a combat zone, shall file returns by April 15 of the following year, or corresponding date for fiscal years, unless granted an extension of time to file as explained in regulation 103 KAR 15:050.

Section 2. Interest and Penalties. Interest and penalties shall not accrue during the allowable period of deferment provided to qualifying service members pursuant to Section 1 of this regulation. However, if a qualifying service member fails to make a file the required return or fails to pay the tax due within the twelve (12) month deferment period, interest and penalties provided by law shall accrue from the first day of the first month following the end of the deferment period.

C. EMMETT CALVERT, Secretary
APPROVED BY AGENCY: August 14, 1990
FILED WITH LRC: August 15, 1990 at 9 a.m.

PUBLIC HEARING: A public hearing on this regulation will be held on September 24, 1990 at 2 p.m. in Room 406 of the Capitol Annex, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by September 19, 1990, five days prior to 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. The 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: Scott Akers,

Revenue Cabinet, Division of Tax Policy and Research, New Capitol Annex, Frankfort, Kentucky 40620.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Scott Akers

(1) Type and number of entities affected: This proposed regulation would affect only military and civilian employees of the United States government who are required to file Kentucky income tax returns. The new regulation simply reestablishes those provisions of 103 KAR 17:040 not deemed to be in violation of KRS 13A.030(2)(a)2 and conform to the law those provisions which were judged deficient. The existing regulation expired on July 13, 1990.

(a) Direct and indirect costs or savings to those affected: The taxpayers involved would begin to accrue penalty and interest only after the end of the tax deferment period rather from the original due date of the tax return. This would result in less penalty and interest being applicable. However, the actual amount of the savings to affected taxpayers cannot be accurately determined, but it is likely less than $100 for the average taxpayer.

1. First year: The taxpayers involved would begin to accrue penalty and interest only after the end of the tax deferment period rather from the original due date of the tax return. This would result in less penalty and interest being applicable. However, the actual amount of the savings to affected taxpayers cannot be accurately determined, but it is likely less than $100 for the average taxpayer.

2. Continuing costs or savings: The taxpayers involved would begin to accrue penalty and interest only after the end of the tax deferment period rather from the original due date of the tax return. This would result in less penalty and interest being applicable. However, the actual amount of the savings to affected taxpayers cannot be accurately determined, but it is likely less than $100 for the average taxpayer.

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

(b) Reporting and paperwork requirements: There would be no change from current reporting and paperwork requirements for affected military and civilian personnel.

(2) Effects on the promulgating administrative body: The date that penalty and interest is applied by the Revenue Cabinet against affected taxpayers would be changed to the end of the extension period.

(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 alternative of not filing a new regulation was considered, but it was felt that it was necessary for the Revenue Cabinet to continue to explain the special filing requirements applicable to the military and civilian personnel affected.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No conflict.

(a) Necessity of proposed regulation if in conflict: 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: This proposed regulation simply reestablishes those provisions of expiring 103 KAR 17:040 not deemed to be deficient pursuant to KRS 13A.030. The deficient portion of the expiring regulation is corrected to reflect the statutory provisions. The existing regulation expired on July 13, 1990.

TIERING: Was tiering applied? No. This regulation applies to all military and civilian employees of the United State government. There is no statutory authority to provide preferential treatment on the basis of size or other criteria.

REVENUE CABINET
Department for Administrative Services

103 KAR 25:081. Sales tax collection; bracket system.

RELATES TO: KRS 139.210, 139.230

STATUTORY AUTHORITY: KRS Chapter 13A, 131.130

NECESSITY AND FUNCTION: KRS 139.230 authorizes the Revenue Cabinet to prepare suitable brackets of prices for the collection of the sales tax. This regulation establishes the bracket system, explains the proper use of the system and describes other requirements relating to the tax collected.

Section 1. Unless otherwise authorized by the Revenue Cabinet, KRS 139.210 requires every retailer making retail sales of tangible personal property within this state to collect the sales tax from the consumer. The Revenue Cabinet requires use of a bracket system to eliminate fractions of one (1) cent so that the aggregate collection of tax shall be equal, insofar as practicable, to six (6) percent of taxable receipts.

(1) The bracket system is as follows:

Amount of Sale	Tax
$.01 to $ .08 inclusive	$.00
.09 to .24 inclusive	.01
.25 to .41 inclusive	.02
.42 to .58 inclusive	.03
.59 to .74 inclusive	.04
.75 to .91 inclusive	.05
.92 to 1.08 inclusive	.06

(2) On each sale above one (1) dollar and eight (8) cents the tax is to be computed by applying the six (6) percent tax rate to the sales price, rounded off to the nearest cent by eliminating any fraction less than one-half (1/2) cent and increasing any fraction of one-half (1/2) cent or over to the next higher cent.

Section 2. Retailers shall be governed by the following rules in collecting the sales tax from the consumer:

(1) Use of the prescribed bracket system does not relieve a retailer from liability for payment of six (6) percent of the taxable

receipts. The taxable amount must be determined by subtracting the allowable deductions from total receipts (including tax collected from consumers). The balance is then divided by 106 and that result is multiplied by 100 - which is the amount to be reported as net taxable receipts on the retailer's sales and use tax return.

(2) No other bracket system is permitted.

(3) The tax need not be separately listed on each item of inventory, but KRS 139.210 does require the retailer to state the tax separately from the sales price, the price advertised in the premises, the market price, or other price on the sales receipt or other proof of sales given to the consumer.

(4) The retailer shall collect the tax as provided in Section 1 of this regulation with respect to each sale. The tax may not be collected by the retailer on some sales but not on others.

(5) As provided in KRS 139.210 the tax collected from the consumer shall be deemed to be held in trust by the retailer for and on account of the Commonwealth of Kentucky and shall constitute a debt of the retailer to the Commonwealth.

C. EMMETT CALVERT, Secretary

APPROVED BY AGENCY: August 14, 1990

FILED WITH LRC: August 15, 1990 at 9 a.m.

PUBLIC HEARING: A public hearing on this regulation will be held on September 25, 1990 at 10 a.m. in Room 406 of the Capitol Annex, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by September 20, 1990, five days prior to 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. The 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: Raymond L. Kring, Revenue Cabinet, Division of Tax Policy and Legal Services, New Capitol Annex, Frankfort, Kentucky 40620.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Raymond L. Kring

(1) Type and number of entities affected: The entities affected are the 93,136 retailers registered with the Revenue Cabinet. The proposed regulation reestablishes the provisions of 103 KAR 25:080 not judged to be deficient. The existing regulation expired on July 13, 1990. It also establishes a sales tax bracket system for the 6% tax rate established by 1990 legislation in HB 940.

(a) Direct and indirect costs or savings to those affected: There would be no savings to those affected since the proposed regulation simply continues the current requirements. Retailers having computerized cash registers may incur at least some programming costs to accommodate the new tax rate brackets established.

1. First year: There would be no savings to those affected since the proposed regulation simply continues the current requirements. Retailers having computerized cash registers may incur at least some programming costs to accommodate the new tax rate brackets established.

2. Continuing costs or savings: There would be no savings to those affected since the proposed regulation simply continues the current requirements. Retailers having computerized cash registers may incur at least some programming costs to accommodate the new tax rate brackets established.

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

(b) Reporting and paperwork requirements: There would be no change from current reporting and paperwork requirements for affected retailers.

(2) Effects on the promulgating administrative body: There would be no change from current administrative requirements for the Revenue Cabinet.

(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: There would be no change in current reporting and paperwork requirements.

(3) Assessment of anticipated effect on state and local revenues: This proposed regulation will not have any effect on state or local revenues. However, the 6% sales and use tax rate will produce $187.4 million in FY 1990-91 and $214.9 million in FY 1991-92.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Other potential tax collection brackets were considered, but those established in the proposed regulation were deemed to be the most fair and equitable for retailers, consumers and the Commonwealth.

(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: 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: This proposed regulation simply reestablishes the provisions of expired 103 KAR 25:080 not judged to be deficient and establishes a bracket system for collection of the 6% tax rate provided in HB 940.

TIERING: Was tiering applied? No. This regulation applies to all retailers. There is no statutory authority to provide preferential treatment on the basis of size or other criteria.

REVENUE CABINET
Department for Administrative Services

103 KAR 25:091. Use tax collection; bracket system.

RELATES TO: KRS 139.230, 139.340, 139.360, 139.380

STATUTORY AUTHORITY: KRS Chapter 13A, 131.130

NECESSITY AND FUNCTION: KRS 139.230 authorizes

the Revenue Cabinet to prepare suitable brackets of prices for the collection of the use tax. This regulation establishes the bracket system, explains the proper use of the system and describes other requirements relating to the tax collected or required to be collected.

Section 1. Under KRS 139.349 every retailer making retail sales of tangible personal property for storage, use or other consumption in this state is required to collect the use tax from the purchaser. The Revenue Cabinet requires use of a bracket system to eliminate fractions of one (1) cent so that the aggregate collection of tax shall be equal, insofar as possible, to six (6) percent of total sales price.

(1) The bracket system is as follows:

Amount of Sale	Tax
$.01 to $ .08 inclusive	$.00
.09 to .24 inclusive	.01
.25 to .41 inclusive	.02
.42 to .58 inclusive	.03
.59 to .74 inclusive	.04
.75 to .91 inclusive	.05
.92 to 1.08 inclusive	.06

(2) On each sale above one (1) dollar and eight (8) cents the tax is to be computed by applying the six (6) percent tax rate to the sales price, rounded off to the nearest cent by eliminating any fraction less than one-half (1/2) cent and increasing any fraction of one-half (1/2) cent or over to the next higher cent.

Section 2. Retailers required to collect the use tax on sales of tangible personal property for use in Kentucky shall be governed by the following rules:

(1) Use of the prescribed bracket system does not relieve a retailer from liability for payment of six (6) percent of the total sales price less allowable deductions. The taxable amount must be determined by subtracting the allowable deductions from the total sales price (including tax collected from consumers). The balance is then divided by 106 and that result is multiplied by 100 - which is the amount to be reported as net taxable receipts on the retailer's sales and use tax return.

(2) No other bracket system is permitted.

(3) The retailer must state the tax separately from the list price, the price advertised in the premises, the marked price, or other price on the sales check or other proof of sales given to the customer.

(4) The retailer shall collect the tax as provided in Section 1 of this regulation with respect to each sale. The tax may not be collected by the retailer on some sales but not on others.

(5) As provided in KRS 139.340 and 139.360, the tax collected or required to be collected by the retailer shall be held in trust for and on account of the Commonwealth of Kentucky. The tax or any part thereof required to be collected shall constitute a debt owed by the retailer to this state.

C. EMMETT CALVERT, Secretary
APPROVED BY AGENCY: August 14, 1990
FILED WITH LRC: August 15, 1990 at 9 a.m.
PUBLIC HEARING: A public hearing on this regulation will be held on September 25, 1990 at 2 p.m. in Room 406 of the Capitol Annex, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by September 20, 1990, five days prior to 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. The 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: Raymond L. Kring, Revenue Cabinet, Division of Tax Policy and Legal Services, New Capitol Annex, Frankfort, Kentucky 40620.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Raymond L. Kring

(1) Type and number of entities affected: The entities affected are the 93,136 retailers registered with the Revenue Cabinet. The proposed regulation reestablishes of expired 103 KAR 25:090 not judged to be deficient. The existing regulation expired on July 13, 1990. It also establishes a use tax bracket system for the 6% tax rate established by 1990 legislation in HB 940.

(a) Direct and indirect costs or savings to those affected: There would be no savings to those affected since the proposed regulation simply continues the current requirements. Retailers having computerized cash registers may incur at least some programming costs to accommodate the new tax rate brackets established.

1. First year: There would be no savings to those affected since the proposed regulation simply continues the current requirements. Retailers having computerized cash registers may incur at least some programming costs to accommodate the new tax rate brackets established.

2. Continuing costs or savings: There would be no savings to those affected since the proposed regulation simply continues the current requirements. Retailers having computerized cash registers may incur at least some programming costs to accommodate the new tax rate brackets established.

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

(b) Reporting and paperwork requirements: There would be no change from current reporting and paperwork requirements for affected retailers.

(2) Effects on the promulgating administrative body: There would be no change from current administration requirements for the Revenue Cabinet.

(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: There would be no change in current reporting

and paperwork requirements.
(3) Assessment of anticipated effect on state and local revenues: This proposed regulation will not have any effect on state or local revenues. However, the 6% sales and use tax rate will produce $187.4 million in FY 1990-91 and $214.9 million in FY 1991-92.
(4) Assessment of alternative methods; reasons why alternatives were rejected: Other potential tax collection brackets were considered, but those established in the proposed regulation were deemed to be the most fair and equitable for retailers, consumers and the Commonwealth.
(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: 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: This proposed regulation simply reestablishes the provisions of expired 103 KAR 25:090 not judged to be deficient and establishes a bracket system for collection of the 6% tax rate provided in HB 940.
TIERING: Was tiering applied? No. This regulation applies to all retailers. There is no statutory authority to provide preferential treatment on the basis of size or other criteria.

REVENUE CABINET
Department of Administrative Services

103 KAR 30:091. Sales to farmers.

RELATES TO: KRS 139.260, 139.470, 139.480
STATUTORY AUTHORITY: KRS Chapter 13A, 131.130
NECESSITY AND FUNCTION: To interpret the sales and use tax law as it relates to sales to farmers.

Section 1. KRS 139.480 provides that "Any other provisions of this chapter to the contrary notwithstanding, the terms 'sale at retail,' 'retail sale,' 'use,' 'storage,' and 'consumption' as used in this chapter do not include the sale, use, storage, or other consumption of:... (9) Farm machinery. As used in this section the term 'farm machinery' means machinery used exclusively and directly in the occupation of tilling the soil for the production of crops as a business, or in the occupation of raising and feeding livestock or poultry or of producing milk for sale. The term 'farm machinery' as used in this section includes machinery, attachments, and replacements therefor, repair parts, and replacement parts which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of such machinery, and are customarily so used but this exemption shall not include automobiles, trucks, trailers, and truck-trailer combinations."

Section 2. The exclusion from tax referred to in the law applies to motor or animal-drawn or operated farm machinery and implements, including attachments which are necessary to the operation of such machinery and implements. To qualify for exemption, the property must be used in the occupation of tilling the soil for the production of crops (including timber, flowers, fruits, shrubs, etc.) as a business or in the occupation of raising and feeding livestock or poultry or of producing milk, eggs, wool, etc., for sale. The exclusion is not limited to items commonly referred to as "farm machinery" but includes all machinery directly used in the activities listed above.

Section 3. Exempt Items. Examples of items which qualify for exemption in addition to the more commonly known items of "farm machinery" are: irrigation systems, tobacco curing equipment, farm wagons, portable insecticide sprayers, chain saws, mechanical cleaning equipment, mechanical shop equipment, mechanical posthole diggers, silo unloaders (augers), grain and hay elevators, milking machines, automatic washers, mechanical bulk tanks, cooling units, brooders, incubators, automatic egg gathering systems, egg processing equipment, automatic feeding equipment, automatic waterers.

Section 4. Taxable Items. The following categories of items are excluded from the meaning of the term "farm machinery" and are subject to tax:
(1) Containers and storage facilities such as milk cans, wash tanks, watering tanks, egg baskets, nonmechanical silos, nonmechanical feeders, and oil and gas storage tanks.
(2) Hand tools, and wholly hand-operated equipment such as wheelbarrows, hoes, rakes, pitchforks, shovels, brooms, wrenches, pliers, and grease guns.
(3) Attachments (accessories) not essential to the operation of the machinery itself (except when sold as a part of an assembled unit) such as cigarette lighters, radios, canopies, air conditioning units, cabs, deluxe seats, tool or utility boxes, and lubricators.
(4) Miscellaneous farm equipment and supplies such as tobacco sticks, tobacco canvas, milk strainers, lawn and garden equipment, oils and greases, and coke.
(5) Items which are incorporated into real property such as stalls, stanchions, drainage tile, fencing materials, and building materials excepting materials incorporated into the construction, renovation, or repair of:
(a) On-farm grain or soybean facilities as provided in Section 6(7) of this regulation;
(b) On-farm chicken-raising facilities as provided in Section 6(7) of this regulation.

Section 5. Attachments; Repair and Replacement Parts. (1) "Attachments" to farm machinery or farm implements are tax exempt both upon original purchase and when replaced. The term "attachments" refers to items purchased for use in connection with farm machinery or farm implements primarily to improve efficiency or to diversify the function which the machinery or implements are capable of performing. Included in the "attachment" category are: hydraulic systems, weights, hitches, dual wheel assemblies, other items necessary to the operation of machinery or implements.
(2) "Repair and replacement parts" purchased for use on farm machinery which are necessary to the operation of such machinery are exempt from tax. Included in the "repair and replacement part" category are: batteries, tires, fan belts, mufflers, spark plugs, miscellaneous motor

repairs, plow points, cutting parts, v-belts, bolts, springs, etc.

Section 6. Tax does not apply to gross receipts derived from the sale of, and the storage, use or other consumption in this state of:

(1) Livestock of a kind the products of which ordinarily constitute food for human consumption provided the sales are made for breeding or dairy purposes and by or to a person regularly engaged in the business of farming.

(2) Poultry for use in breeding or egg production.

(3) Farm work stock for use in farming operations.

(4) Sales made to farmers who are regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business or who are regularly engaged in the occupation of raising and feeding livestock or poultry or producing milk for sale, of:

(a) Seeds, the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business.

(b) Feed for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption.

(c) Commercial fertilizer to be applied on land the products from which are to be used for food for human consumption or are to be sold in the regular course of business.

(d) Feed supplements which are premixed and are to be mixed with feed for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption.

(5) Nonreturnable containers used in packaging or binding products which are sold by farmers. This includes but is not limited to baskets, sacks, crates, binder twine, baler twine, and baler wire.

(6) Gasoline, special fuels, and liquefied petroleum gas used to operate or propel stationary engines or tractors for agricultural purposes.

(7) Equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of on-farm facilities used exclusively for grain or soybean storing, drying, handling or processing.

(8) Equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of on-farm facilities used exclusively for raising chickens, including vent bored equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems and curtain systems. The exemption applies regardless of whether the seller or purchaser is responsible for delivery, assembly or incorporation of the items into real estate or into the construcation, renovation, or repair of the facilities.

Section 7. Certification of Exemption. Farm machinery and attachments may be purchased exempt from tax by furnishing the vendor with a properly executed Farm Machinery Exemption Certificate, Revenue Form 51A148. An Agricultural Certificate of Exemption, Revenue Form 51A106, must be obtained by the vendor as evidence of a tax exempt sale of: seed, feed, fertilizer, feed supplements, livestock, poultry, farm work stock, repair and replacement parts for farm machinery, nonreturnable containers, gasoline, special fuels, liquefied petroleum gas, and repair and replacement parts for machinery and equipment which are part of an on-farm grain or soybean facility. Machinery, equipment, attachments and any materials incorporated into the construction, renovation or repair of on-farm grain or soybean facilities may be purchased exempt from tax under a properly executed Certificate of Exemption for On-Farm Grain or Soybean Facilities, Revenue Form 51A148-S1. Equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation or repair of on-farm facilities used exclusively for raising chickens may be purchased exempt from tax under a properly executed Certificate of Exemption for On-Farm Chicken Raising Facilities, Revenue Form 51A153. Vendors failing to obtain and retain in their files the proper certificate will be held liable for the tax.

Section 8. The examples of taxable and nontaxable items contained in this regulation are for illustrative purposes only and are not intended to be all inclusive.

C. EMMETT CALVERT, Secretary
APPROVED BY AGENCY: August 14, 1990
FILED WITH LRC: August 15, 1990 at 9 a.m.
PUBLIC HEARING: A public hearing on this regulation will be held on September 27, 1990 at 2 p.m. in Room 406 of the Capitol Annex, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by September 22, 1990, five days prior to 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. The 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: Raymond L. Kring, Revenue Cabinet, Division of Tax Policy and Legal Services, New Capitol Annex, Frankfort, Kentucky 40620.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Raymond L. Kring

(1) Type and number of entities affected: The entities affected are the 339 retailers of farm machinery and all farmers purchasing such machinery. The proposed regulation reestablishes the provisions of 103 KAR 30:090 not judged to be deficient. The existing regulation expired on July 13, 1990. The regulation also incorporates provisions from 1990 legislation in SB 174 which specifically exempts on-farm facilities used exclusively for raising chickens.

(a) Direct and indirect costs or savings to those affected: There would be no costs to those affected since the proposed regulation simply continues the current requirements, except those related to the portions of 103 KAR 30:090 which were ruled deficient. Those items are addressed

in another regulation. Some small, but immeasurable savings to farmers would result from the exemption of facilities for raising chickens.

1. First year: There would be no costs to those affected since the proposed regulation simply continues the current requirements, except those related to the portions of 103 KAR 30:090 which were ruled deficient. Those items are addressed in another regulation. Some small, but immeasurable savings to farmers would result from the exemption of facilities for raising chickens.

2. Continuing costs or savings: There would be no costs to those affected since the proposed regulation simply continues the current requirements, except those related to the portions of 103 KAR 30:090 which were ruled deficient. Those items are addressed in another regulation. Some small, but immeasurable savings to farmers would result from the exemption of facilities for raising chickens.

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

(b) Reporting and paperwork requirements: There would be a very small increase in current reporting and paperwork requirments for affected retailers and farmers related to the exemption of facilities for raising chickens. A special exemption certificate executed by farmers and retained by retailers will be required.

(2) Effects on the promulgating administrative body: There would be only a minor change from current administrative requirements for the Revenue Cabinet related to the exemption of facilities for raising chickens. A special exemption certificate executed by farmers and retained by retailers will be required.

(a) Direct and indirect costs or savings: There would be no savings to the Revenue Cabinet. A cost of less than $1,000 per year will result from providing and distributing the new exemption certificate to retailers selling facilities for raising chickens.

1. First year: There would be no savings to the Revenue Cabinet. A cost of less than $1,000 per year will result from providing and distributing the new exemption certificate to retailers selling facilities for raising chickens.

2. Continuing costs or savings: There would be no savings to the Revenue Cabinet. A cost of less than $1,000 per year will result from providing and distributing the new exemption certificate to retailers selling facilities for raising chickens.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: There would be no change in current reporting and paperwork requirements.

(3) Assessment of anticipated effect on state and local revenues: A small, but immeasurable, revenue loss will result from the exemption of facilities for raising chickens.

(4) Assessment of alternative methods; reasons why alternatives were rejected: This proposed regulation was deemed by the Revenue Cabinet as necessary to reestablish the provisions of the expired regulation which were not judged deficient and incorporate provisions related to exemption of facilities for raising chickens. No alternative methods were available.

(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: 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: The proposed regulation simply continues the current requirements, except those related to the portions of the expired regulation judged deficient and incorporates provisions from 1990 legislation in SB 174 related to the exemption created for chicken raising facilities.

TIERING: Was tiering applied? No. This regulation applies to all retailers of farm machinery and to farmers purchasing such machinery. There is no statutory authority to provide preferential treatment on the basis of size or other criteria.

REVENUE CABINET
Department of Administrative Services

103 KAR 31:011. Accounting methods.

RELATES TO: KRS 139.025, 139.050, 139.120, 139.130, 139.200, 139.260, 139.340, 139.550, 139.560, 139.710, 139.720

STATUTORY AUTHORITY: KRS Chapter 13A

NECESSITY AND FUNCTION: To interpret the sales and use tax law as it relates to methods of accounting for and remitting the tax.

Section 1. Generally, all persons (e.g., corporations, partnerships, associations and proprietorships) are required to determine and report their gross receipts (or sales price in the case of the use tax) by the accrual accounting method. That is, all cash, credit, installment and conditional sales are to be included in the measure of the tax on the return for the month in which the sales transaction occurs, even though all or a part of the payments owing from customers on those sales are deferred under a credit, installment or conditional sale arrangement. However, if the retailer maintains his records on a cash basis and accounts for cash collections rather than sales transactions, he may elect to use that method in reporting his sales and use tax liability provided all cash collections for the reporting period are included in his return without deduction for amounts received from sales transactions occurring during any period preceding the reporting period. By electing the cash basis, the taxpayer has established the point of "sale" as the act of receiving payment and not the filing of the customer's order, the issuance of the billing to the customer or the delivery of the goods or services.

Section 2. Where sales transactions are regularly recorded on the cash basis described in Section 1 of this regulation but adjustments are made at the end of the year to determine receipts on an accrual sale basis for income tax purposes, the cash reporting basis authorized in Section 1 of this regulation may still be used by the retailer in reporting and paying the tax. However, the retailer must include in his last sales and use tax return filed for each year the year-end accrual adjustment made and any additional tax due must be remitted with the

return. Any overpayment will be refunded or credited to the account of the permit holder.

Section 3. If a retailer elects to employ the cash basis of reporting authorized in Section 1 of this regulation, the tax must be paid on the taxable ending accounts receivables when the business is discontinued or sold. However, if the buyer of the business (including the accounts receivable) by written agreement with the cabinet agrees to report his sales and use tax liability on the cash basis authorized, his receipts from the accounts receivable purchased may be reported and the tax due thereon paid by him when collected.

Section 4. A retailer, after adopting a method of reporting his sales and use tax liability, shall not change that method without obtaining the written consent of the cabinet. The cabinet shall not consider authorizing a change from the accrual to the cash basis unless the taxpayer submits clear and convincing evidence that either the nature of the business or the general accounting procedures and practices of the business have changed significantly so as to warrant a change to the cash basis. No request to change from accrual to the cash basis shall be authorized if, in the opinion of the cabinet, the real or ultimate purpose of the change is to reduce the taxpayer's current sales or use tax payments to the Commonwealth.

C. EMMETT CALVERT, Secretary
APPROVED BY AGENCY: August 14, 1990
FILED WITH LRC: August 15, 1990 at 9 a.m.
PUBLIC HEARING: A public hearing on this regulation will be held on September 21, 1990 at 10 a.m. in Room 406 of the Capitol Annex, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by September 20, 1990, five days prior to 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. The 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: Raymond L. Kring, Revenue Cabinet, Division of Tax Policy and Legal Services, New Capitol Annex, Frankfort, Kentucky 40620.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Raymond L. Kring
(1) Type and number of entities affected: The entities affected are the 93,136 retailers registered with the Revenue Cabinet. The proposed regulation reestablishes and clarifies the provisions of 103 KAR 31:010 since 1990 legislation created a statutory basis for the contents of the regulation in HB 375.
(a) Direct and indirect costs or savings to those affected: There would be no costs or savings to those affected since the proposed regulation essentially continues the current requirements for accounting methods.
1. First year: There would be no costs or savings to those affected since the proposed regulation essentially continues the current requirements for accounting methods.
2. Continuing costs or savings: There would be no costs or savings to those affected since the proposed regulation essentially continues the current requirements for accounting methods.
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: There would be no change from current reporting and paperwork requirements for affected retailers.
(2) Effects on the promulgating administrative body: There would be no change from current administrative requirements for the Revenue Cabinet.
(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: There would be no change in current reporting and paperwork requirements.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: This proposed regulation was deemed by the Revenue Cabinet as necessary to reestablish and clarify the provisions of the expired regulation for which 1990 legislation provided statutory authority. No alternative methods were available.
(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: 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: This proposed regulation essentially reestablishes and clarifies the provisions of expired regulation 103 KAR 31:010 since 1990 legislation created a statutory basis for the contents of the regulation in HB 375.
TIERING: Was tiering applied? No. This regulation applies to all retailers. There is no statutory authority to provide preferential treatment on the basis of size or other criteria.

REVENUE CABINET
Department of Administrative Services

103 KAR 31:111. Sales and purchases for resale.

RELATES TO: KRS 139.260, 139.270, 139.280, 139.290, 139.300, 139.400, 139.410, 139.420, 139.430, 139.440, 139.760, 139.990
STATUTORY AUTHORITY: KRS Chapter 13A, 131.130
NECESSITY AND FUNCTION: To consolidate and clarify various provisions of the sales and use tax law as they relate to the authorized issuance of resale certificates by purchasers and acceptance thereof by sellers.

Section 1. Every person selling tangible personal property in this state must obtain from the purchaser a certificate of resale on all

tangible personal property sold in this state for the purpose of resale. The certificate must be taken in good faith, as defined in KRS 139.270, from a person engaged in selling tangible personal property who at the time of purchase, either intends to sell the property in the regular course of business, or cannot, at the time of the purchase, ascertain whether it will be sold or not. The certificate shall be of two (2) types:

(1) "Single purchase certificate" on which the purchaser must itemize the property to be purchased. A single purchase certificate may only be used for a single purchase of commodities for resale and cannot be used for subsequent purchases.

(2) "Blanket certificate" on which the purchaser is required to generally describe the kind of property to be purchased for resale in the regular course of his business. A purchaser who has executed a blanket certificate shall not be required to execute additional certificates of resale for individual purchases so long as there is no change in the character of his operation and the purchases are of tangible personal property of the kind usually purchased by the purchaser for resale.

Section 2. As provided in KRS 139.260, all sales for resale which are not supported by a properly executed resale certificate shall be deemed retail sales and the burden of proving that the sale is not at retail is upon the seller.

Section 3. The certificate shall be substantially in the form prescribed below. It must include the number of the permit held by the purchaser, but if he is not required to hold a permit because he is a nonresident purchaser not required to register in Kentucky, he shall make a notation on the face of the certificate to the effect that he is a nonresident purchaser not required to register and obtain a permit in Kentucky. The certificate, in all cases, must be signed by the purchaser, bear his name and address, and indicate the general character of the property sold by the purchaser in the regular course of his business. The purchaser shall clearly mark on the certificate whether it is a single purchase certificate or a blanket certificate.

Section 4. The following form of resale certificate is prescribed by the cabinet pursuant to KRS 139.280 and 139.420:

___ Blanket Certificate
___ Single Purchase Certificate

I HEREBY CERTIFY: That I hold a valid Retail Sales and Use Tax Permit, Account No. _____, issued pursuant to the Sales and Use Tax Law; that I am engaged in the business of selling _____; that the tangible personal property described herein which I shall purchase from _____ will be resold by me; provided, however, that in the event any such property is used for any purpose other than retention, demonstration, or display while holding it for sale in the regular course of business, it is understood that I am required by the Sales and Use Tax Law to report and pay the tax measured by the purchase price of such property.

Description of property to be purchased:

_____

_____

For a Single Purchase Certificate, itemize the tangible personal property to be purchased; for a Blanket Certificate, give a general description of the kind of property to be purchased for resale in the regular course of the purchaser's business.

Purchaser _____
Address _____

Dated: _____, 19___.
At _____

Section 5. Improper use of a certificate of resale by a purchaser shall be grounds for the Revenue Cabinet to revoke the purchaser's sales and use tax permit. Criminal penalties shall apply as provided in KRS 139.990.

Section 6. "Good faith" on the part of the seller shall be deemed to be absent if the seller has facts which give rise to a reasonable inference that the purchaser does not intend to resell the property but instead intends it for his own use or consumption.

C. EMMETT CALVERT, Secretary
APPROVED BY AGENCY: August 14, 1990
FILED WITH LRC: August 15, 1990 at 9 a.m.

PUBLIC HEARING: A public hearing on this regulation will be held on September 23, 1990 at 10 a.m. in Room 406 of the Capitol Annex, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by September 20, 1990, five days prior to 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. The 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: Raymond L. Kring, Revenue Cabinet, Division of Tax Policy and Legal Services, New Capitol Annex, Frankfort, Kentucky 40620.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Raymond L. Kring

(1) Type and number of entities affected: The entities affected are the 93,136 retailers registered with the Revenue Cabinet. The proposed regulation reestablishes the provisions of regulation 103 KAR 31:110 not judged to be deficient. The existing regulation expired on July 13, 1990.

(a) Direct and indirect costs or savings to those affected: There would be no costs or savings to those affected since the proposed regulation simply continues the requirements for resale certificates which were not judged deficient.

1. First year: There would be no costs or savings to those affected since the proposed

regulation simply continues the requirements for resale certificates which were not judged deficient.

2. Continuing costs or savings: There would be no costs or savings to those affected since the proposed regulation simply continues the requirements for resale certificates which were not judged deficient.

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

(b) Reporting and paperwork requirements: There would be no change from current reporting and paperwork requirements for affected retailers.

(2) Effects on the promulgating administrative body: There would be no change from current administrative requirements for the Revenue Cabinet.

(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: There would be no change in current reporting and paperwork requirements.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: This proposed regulation was deemed by the Revenue Cabinet as necessary to reestablish the provisions of the expired regulation which were not judged to be deficient. No alternative methods were available.

(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: 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: The proposed regulation simply continues the provisions of expired regulation 103 KAR 31:110, except those related to the portions judged deficient.

TIERING: Was tiering applied? No. This regulation applies to all retailers. There is no statutory authority to provide preferential treatment on the basis of size or other criteria.

TOURISM CABINET
Department of Fish and Wildlife Resources

301 KAR 2:185. Hunter education training.

RELATES TO: KRS 150.010, 150.015, 150.990

STATUTORY AUTHORITY: KRS 13A.100, 150.025

NECESSITY AND FUNCTION: This regulation is necessary to mandate hunter education training which will provide trained, responsible, knowledgeable, and involved course graduates. The program will help to protect and conserve the wildlife resources of the Commonwealth, promote the sport and recreation of hunting, promote the general welfare of the Commonwealth, and provide for the prudent taking and disposition of wildlife. The function of this regulation is to establish the requirements for hunter education training.

Section 1. Definitions. (1) "Course completion card" means the card issued by the department or by another state, province, or country to a student who has successfully completed a hunter education course approved by the Hunter Education Association.

(2) "Hunter education instructor" is a person who has met the requirements detailed in Section 7 of this regulation and has been certified by the department to instruct or assist in the instruction of the Kentucky hunter education program.

(3) "Master hunter education instructor" is a hunter education instructor appointed by the hunter education coordinator because of extensive knowledge of the Kentucky hunter education program, who serves as a team leader, and conducts workshops for hunter education instructors.

(4) "Master hunter education instructor trainter" is appointed by the hunter education coordinator after assisting in at least fifty (50) hunter education courses, and who has the authority to certify hunter education instructors.

Section 2. Mandatory Hunter Education. Except as provided in Section 3(1) and (2) of this regulation, beginning March 1991, residents or nonresidents, born on or after January 1, 1975, shall, while hunting, carry a valid course completion card in addition to the appropriate Kentucky hunting license. A bow hunter not in possession of a firearm may carry a "National bow hunter education program" course completion card in lieu of the course completion card. The appropriate card shall be presented upon request to any peace officer or department employee.

Section 3. Exemptions. (1) Children under ten (10) years of age may hunt without a course completion card, but shall be accompanied by an adult of at least eighteen (18) years of age who shall be in a position to take immediate control of the child's bow or firearm. One (1) adult shall not accompany more than two (2) children at one (1) time.

(2) A person exempt from a hunting license requirement is also exempt from possessing the course completion card.

Section 4. Hunter Education Course Requirements. A participant in the hunter education program shall be eligible to receive a course completion card when he has:

(1) Attended a minimum of ten (10) hours of required training by a hunter education instructor.

(2) Taken a minimum of eighty (80) examination questions and answered at least eighty-one (81) percent correctly.

(3) Participated safely in the live fire exercise, as determined by the instructor. Shooting shall be required.

(4) Exhibited a responsible attitude toward others, property, and equipment during the course, as determined by the instructor.

Section 5. Duplicate Cards. Duplicate hunter education course completion cards may be obtained from the Division of Conservation Education for two (2) dollars each.

Section 6. Instruction. Hunter education training shall be provided only by the Kentucky Department of Fish and Wildlife Resources through a hunter training officer or hunter

education instructor. Instructor certification shall be provided by a hunter training officer or a master hunter education instructor trainer.

Section 7. Instructor Certification Requirements. Applicants shall fulfill the following requirements to be certified as a hunter education instructor:

(1) Be at least eighteen (18) years of age.

(2) Complete an application, which shall be verified. A background investigation may be conducted.

(3) Attend a minimum twelve (12) hour instructor training course taught by a hunter training officer or a master instructor trainer.

(4) Attain a minimum score of ninety (90) percent on the hunter education instructor examination.

Section 8. Instructor Certification, Disqualification, or Revocation. Kentucky hunter education instructors shall work at the pleasure of the hunter education coordinator. Instructors who fail to instruct or assist in the instruction of at least one (1) hunter education course per year may be purged from active instructor status. The certification of an instructor convicted of a felony or crime of violence shall be revoked. After certification, any volunter instructor convicted of a fish and wildlife violation may have his instructor certification revoked.

DON R. McCORMICK, Commissioner
RON GENTRY, Secretary
DAVID GODBY, Chairman

APPROVED BY AGENCY: June 11, 1990

FILED WITH LRC: August 14, 1990 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 25, 1990 at 9 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by September 20, 1990, five days prior to 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. The 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: Mac Lang, Hunter Education Coordinator, Kentucky Department of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Don R. McCormick

(1) Type and number of entities affected: An estimated 29,000 persons will be affected by this regulation.

(a) Direct and indirect costs or savings to those affected: Direct costs involve only the price of transportation to and from class. The courses are free and open to the public. 75% of this program is federally funded. Indirect costs would be a $2 charge for a replacement course completion card if the original were lost.

1. First year: Persons ages 10 through 16 participating in hunting proposed for authorization by this regulation would be required to possess proof of successful completion of a hunter education course unless exempt by regulations. Persons under age 10 would be required to be accompanied by an adult while hunting.

2. Continuing costs or savings: Each year this regulation would involve one year age groups higher than the previous year (i.e., 1991 - ages 10-16; 1992 - ages 10-17...).

3. Additional factors increasing or decreasing costs (note any effects upon competition): The obvious effect upon completion of a hunter education course is the decrease in accidents as a result of required training.

(b) Reporting and paperwork requirements: There will be no additional paperwork. Reports have been kept for years under the voluntary program.

(2) Effects on the promulgating administrative body: This regulation will require time and effort in developing, publishing, reporting, and enforcing the proposal.

(a) Direct and indirect costs or savings: This program has been operated in Kentucky for over 14 years with voluntary participation on the part of citizens.

1. First year: The estimated cost of this program is $218,000. The department is reimbursed for 75% of this figure annually.

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

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Monthly and annual reports are sent to the U.S. Fish and Wildlife Service.

(3) Assessment of anticipated effect on state and local revenues: A positive effect can be expected on state revenues since hunters are required to purchase a hunting license and pay state taxes on other items purchased locally.

(4) Assessment of alternative methods; reasons why alternatives were rejected: This regulation requires hunters to have a course completion card to hunt. If the card had been required to purchase a license or permit, then the court clerks could not sell a license to anyone without a card. This would have had a negative impact on license revenues.

(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: N/A

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

(6) Any additional information or comments: The number of lives saved by this program will never be known. Available statistics do show a reduction in reproted hunting accients since the hunter education program began. It is estimated that 75% of the hunters this regulation will impact are already certified. A mandatory program will help to train those who would otherwise put it off. Kentucky is the 44th state to enact a mandatory education requirement for hunters.

TIERING: Was tiering applied? Yes. This regulation affects hunters who fall into the age 10 through 16 category. Those hunters already past 17 (in 1991) will be "grandfathered".

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. This regulation may be enforced by local law enforcement officers. Hunting encourages spending by hunters for local goods and services. Local tax revenues will increase slightly.
3. State the aspect or service of local government to which this administrative regulation relates. This activity relates to KRS Chapter 150.
4. How does this administrative regulation affect the local government or any service it provides? This type of regulation in other states has encouraged hunting and license sales. Hunting encourages spending for local goods and services.

GENERAL GOVERNMENT CABINET
Department of Agriculture

302 KAR 38:010. Agricultural product logo program

RELATES TO: KRS 260.010
STATUTORY AUTHORITY: KRS 260.036
NECESSITY AND FUNCTION: To define terms used in the administration of the Kentucky agricultural product logo program and establish procedures for the use of the logo.

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 "logo" means the registered trademark of the Kentucky agricultural product logo program authorized by KRS 260.036.
(3) The term "license" means written authorization to use the logo.

Section 2. An agricultural logo license shall be valid for one (1) year following the date of issue. The license may be renewed annually.

Section 3. Standards for License Applications. (1) Applicants shall submit on forms prescribed by the department the following, which shall include:
(a) Applicant's name, address and telephone number;
(b) A list of products relating to the use of the logo;
(c) Brand names of products relating to the use of the logo;
(d) Locations of where said products are grown, processed, manufactured and packaged;
(e) States and/or countries where said products are marketed.
(2) Applicants shall submit a statement of agreement with the department to comply with all requirements of the program, and to use the logo only for agricultural products which meet or exceed applicable federal and industry standards relating to the production, processing, manufacturing, handling and sales of agricultural products.
(3) Upon receipt of a license application, the department shall within sixty (60) days determine whether a license is approved and shall notify the applicant in writing, setting forth the reasons for approval or denial.

Section 4. Methods of Enforcement and Penalties for Violations of These Regulations. (1) The department shall revoke a license to any party failing or refusing to comply with the program requirements.
(2) The department may inspect at reasonable times any area where products licensed for use of the logo are grown, processed, manufactured, stored, packaged or sold.
(3) Any party with cause to believe that any provision of these regulations have been violated may file a written complaint with the department, setting forth the allegations of a violation. The department shall investigate each complaint and provide the complainant with the results of the investigation and any remedial action taken
(4) Any party aggrieved by the notice of revocation of license may appeal the department's decision in writing within ten (10) days of the notice of revocation.
(5) The department shall maintain a hearing committee available to hear complaints by aggrieved parties and rule on appeals. The committee shall consist of the following members:
(a) The Commissioner of Agriculture or his designee;
(b) The director of the department's Division of Markets;
(c) The department's legal counsel;
(d) Chairman of the Kentucky Agriculture Council or his designee;
(3) One (1) member of the Kentucky Board of Agriculture.

Section 5. Recordkeeping and Fees. (1) The department shall maintain for four (4) years records of all license applications, licenses issued, complaints, investigations and remedial actions. These records shall be part of the reviewing period of any proceeding involving the program.
(2) Parties receiving a license shall pay to the department a five (5) dollar annual license fee, renewable during the same month of each following year.

WARD "BUTCH" BURNETTE, Commissioner
APPROVED BY AGENCY: July 30, 1990
FILED WITH LRC: August 2, 1990 at 10 a.m.
PUBLIC HEARING: A public comment hearing on this administrative regulation will be held on September 28, 1990, at 1 p.m., at Department of Agriculture Conference Room, 7th Floor, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in attending his hearing, shall notify this agency in writing by September 24, 1990, five days prior to 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 the opportunity to comment on the

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 comment hearing or written comments on the proposed administrative regulation to: J. Michael Noyes, General Counsel, Department of Agriculture, Capital Plaza Tower, 7th Floor, Frankfort, Kentucky 40601, Phone: 502-564-2297.

REGULATORY IMPACT ANALYSIS

Contact Person: Roger Nesbitt
(1) Type and number of entities affected: All food producers, manufacturers and processors in Kentucky are eligible, providing that they meet program requirements.
(a) Direct and indirect costs or savings to those affected:
1. First year: $5 licensing fee.
2. Continuing costs or savings: $5 annual licensing fee.
3.Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: Must submit program application and agreement to comply with program requirements.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: None as a result of this administrative regulation.
1. First year: $165,000 earmarked in FY 1990-91
2. Continuing costs or savings: $142,000 earmarked in FY 1991-92.
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: Maintain program applications and licenses. Maintain written complaints and reports of investigations of complaints.
(3) Assessment of anticipated effect on state and local revenues: Program is expected to bring increased sales of Kentucky agricultural products; impossible to assess at this time.
(4) Assessment of alternative methods; reasons why alternatives were rejected:
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Is tiering applied? No. Program authorized by statute; all program participants will be treated the same.

JUSTICE CABINET
Office of the Secretary

500 KAR 6:210. Application for construction, expansion or renovation.

RELATES TO: KRS 15A.210
STATUTORY AUTHORITY: KRS 15A.160, 15A.210
NECESSITY AND FUNCTION: KRS 15A.210 mandates that the Justice Cabinet issue administrative regulations governing juvenile detention centers.

Section 1. Purpose. The purpose of this regulation is to provide minimum standards for the construction, expansion or renovation of juvenile detention facilities and for measuring compliance of existing juvenile detention facilities in accordance with 500 KAR 6:010 through 500 KAR 6:200.

Section 2. Consultation. The Justice Cabinet may upon request provide for any county government which wishes to remodel an existing juvenile detention facility or construct a new juvenile detention facility, a consultant knowledgeable in the design, utilization, and operation of juvenile detention facilities. The consultant shall meet with the appropriate officials of that county and advise them in matters including but not limited to:
(1) Site selection;
(2) Probable need as it relates to capacity and types of juveniles to be hosued;
(3) Sources of financing for construction;
(4) Laws and regulations relating to facilities for juveniles;
(5) Laws and regulations relating to facilities for juveniles;
(6) Sources of revenue for operations of the juvenile detention facility;
(7) Probable cost for operation of the juvenile detention facility; and
(8) Potential for shared facilities with adjoinging counties.

Section 3. Site Acceptance. No juvenile detention facility shall be built without prior site acceptance y the Justice Cabinet. The following criteria shall be considered in site selection including but not limited to:
(1) Size;
(2) Proximity to courts;
(3) Proximity to community resources;
(4) Availability of public transportation;
(5) Environmental health;
(6) Adequate parking; and
(7) Provisions for future expansion.

Section 4. Construction Documents. Prior to the construction, expansion, or renovation of any juvenile detention facility, plans and specificiations shall be submitted to the Justice Cabinet for review and approval as follows:
(1) Programming phase. This submission shall show:
(a) Statement of general goals and purposes of the facility including a written program philosophy;
(b) Description of services to be provided;
(c) Evaluation of any existing facility;
(d) Assessment of the impact of facility on overall oepration of parent agency;
(e) Population analysis;
(f) Space requirements based on population analysis and standards for the facility and site outlined in 500 KAR 6:010 through 500 KAR 6:200;
(g) Alternate means of satisfying space requirements;
(h) Needs assessment to determine bed space;
(i) Needs assessment to determine services and programming;
(j) Workloan analysis;
(k) Programs analysis;
(l) Staffing analysis;
(m) Proposed governing authority and administration;

(n) Cost analysis;
(o) Financing alternatives;
(p) Outline of time restrictions; and
(g) Summary and recommendations.
(2) Schematic phase.
(a) Scale drawings of each floor plan with all proposed rooms and areas one-eighth (1/8) inch minimum;
(b) Scale drawings of the site, locating the building, parking and other facilities - one (1) inch equals fifty (50) feet; and
(c) Documentation of site as to criteria in Section 3 of this regulation.
(d) Sections through the proposed structure indicating ceiling heights of rooms, mechanical spaces, roof slopes and other related information;
(e) Scale elevation drawings of all exterior walls; and
(f) Schematic cost estimate.
(3) Design development phase.
(a) Scale drawings on each floor plan with all proposed rooms and areas with their dimensions one-eighth (1/8) inch minimum;
(b) All necessary construction drawings including construction details;
(c) Specifications for all materials and workmanship;
(d) A proposed contract with general and special conditions;
(e) Engineering calculations for the foundations, structure, heating ventilating, air conditioning, lighting, and plumbing; and
(f) Detailed estimates of cost of land, site development, construction, financing, professional services, equipment and furnishings.
(4) Construction document phase.
(a) Revised design development construction drawings following review by all applicable agencies.
(b) Signed by an architect registered in the Commonwealth of Kentucky and revised if necessary to include all changes required by the Justice Cabinet.
(c) Revised design development specifications of material and workmanship following review by all applicable agencies.
(5) Contract administration.
(a) Signed copies of all contracts for construction financing and bonding;
(b) Signed copies of all construction permits;
(c) Documentation of review by all other applicable state agencies; and
(d) All change orders must be submitted to the Justice Cabinet for review and approval.
(6) An on-site inspection schedule shall be submitted for inspection by governing authority, contractors, and the Justice Cabinet.
(7) The Justice Cabinet will review all submissions within thirty (30) days of receipt and issue a letter of approval, acceptance with required changes, or rejection with reasons. No construction shall be started until the construction document phase as required in subsection (4) of this section has been approved.
(8) Depending on the site of the proposed construction, renovation or addition, the Justice Cabinet may combine two (2) or more phases as outlined above for review and approval.
(9) All changes prior to the approval of final construction documents shall require appropriate modifications to the final construction documents including redrawing of plans and rewriting of specifications. All changes after the approval of final construction documents shall require adequate documentation which fully describes and illustrates the changes which may include written and graphic addenda, field orders and change orders. In addition a set of accurate as built drawings will be submitted to the Justice Cabinet within sixty (60) days of occupancy of the facility.

Section 5. Fee. A one (1) time processing fee of $250 shall accompany each application filed with the Justice Cabinet pursuant to this regulation.

W. MICHAEL TROOP, Secretary
APPROVED BY AGENCY: July 16, 1990
FILED WITH LRC: July 17, 1990 at 10 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Monday, September 24, 1990, at 10 a.m. at 403 Wapping Street, 2nd Floor, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by September 19, 1990, five days prior to 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. The 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. Christopher W. Johnson, Justice Cabinet, 403 Wapping Street, 2nd Floor, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Contact Person: Christopher W. Johnson
(1) Type and number of entities affected: There will be five juvenile detention facilities affected by this administrative regulation.
(a) Direct and indirect costs or savings to those affected:
1. First year: Costs will include an application fee of $250 and associated duplication fees.
2. Continuing costs or savings: Costs will include an annual fee of $50.
3.Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: Application forms.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: Costs include a projected contract for inspection with Corrections Cabinet which is an unknown amount. Historically, there were no other costs or savings.
2. Continuing costs or savings: Costs will continue on an annual basis.
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: Review of applications.
(3) Assessment of anticipated effect on state and local revenues: Effect will be minimal on the state. Appropriate fiscal courts will be affected by application costs.
(4) Assessment of alternative methods; reasons

why alternatives were rejected: This was statutorily mandated; no alternatives available.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Is tiering applied? No. The statute governing the subject matter of this administrative regulation applies equally to all regulated entities.

JUSTICE CABINET
Office of the Secretary

500 KAR 6:220. Registration.

RELATES TO: KRS 15A.210
STATUTORY AUTHORITY: KRS 15A.160, 15A.210
NECESSITY AND FUNCTION: KRS 15A.210 mandates that the Justice Cabinet issue administrative regulations governing juvenile detention centers.

Section 1. Each juvenile detention facility that is in operation shall file Registration Form JC-JJ:1 as provided by the Justice Cabinet with the Justice Cabinet on an annual basis.

Section 2. The following terms shall apply in Registration Form JC-JJ:1:
(1) "Facility identifier" means the name of the juvenile detention facility.
(2) "Governing authority" means the organization ultimately responsible for ownership of the facility. This may be the county fiscal court, the city council or board of directors or trustees.
(3) "Agency director" means the person who oversees the operation of the facility and reports to the governing authority.
(4) "Agency administrator" means the person responsible for the day-to-day operation of the facility.
(5) "Contact person" means the agency administrator or the person designated by the agency administrator as liaison with the Justice Cabinet.
(6) "Bed capacity" means the total number of beds and their allotment as requested in 500 KAR 6:210, Section 4.
(7) "Client information" means the type of youth served and average length of detention for each type. Types include but are not limited to the following:
(a) Adult;
(b) Public offenders;
(c) Status offenders;
(d) Nonoffenders (dependent, neglected, abused);
(e) Preadjudicative;
(f) Postadjudicative.
(8) "Fiscal" means those agencies and organizations that allot funds for operation of the facility.
(9) "Physical plant" means the floor plans or a copy of the floor plans if any changes have been made after prior filing with the Justice Cabinet.
(10) "Programming" means the listing of all services and programming of the facility such as medical or education.

Section 3. A one (1) time processing fee of fifty (50) dollars shall accompany each form filed with the Justice Cabinet pursuant to this regulation.

W. MICHAEL TROOP, Secretary
APPROVED BY AGENCY: July 16, 1990
FILED WITH LRC: July 17, 1990 at 10 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Monday, September 24, 1990, at 10 a.m. at 403 Wapping Street, 2nd Floor, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by September 19, 1990, five days prior to 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. The 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. Christopher W. Johnson, Justice Cabinet, 403 Wapping Street, 2nd Floor, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Contact Person: Christopher W. Johnson
(1) Type and number of entities affected: There will be five juvenile detention facilities affected by this administrative regulation.
(a) Direct and indirect costs or savings to those affected:
1. First year: Costs will include an application fee of $250 and associated duplication fees.
2. Continuing costs or savings: Costs will include an annual fee of $50.
3.Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: Application forms.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: Costs include a projected contract for inspection with Corrections Cabinet which is an unknown amount. Historically, there were no other costs or savings.
2. Continuing costs or savings: Costs will continue on an annual basis.
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: Review of applications.
(3) Assessment of anticipated effect on state and local revenues: Effect will be minimal on the state. Appropriate fiscal courts will be affected by application costs.
(4) Assessment of alternative methods; reasons why alternatives were rejected: This was statutorily mandated; no alternatives available.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None.

(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Is tiering applied? No. The statute governing the subject matter of this administrative regulation applies equally to all regulated entities.

JUSTICE CABINET
Office of the Secretary

500 KAR 9:050. Model policy.

RELATES TO: KRS 218A.435(9)
STATUTORY AUTHORITY: KRS 218A.435(4)
NECESSITY AND FUNCTION: KRS 218A.435(9) provides that each law enforcement agency prior to being eligible to receive grants from the trust fund must adopt a policy in compliance with or which substantially complies with the model policy published by the Department of Criminal Justice Training. 500 KAR 9:020 requires copies of agency policies to be filed with the Justice Cabinet. This regulation incorporates the department's model policy.

Section 1. The Model Policy for Forfeiture of Assets by Law Enforcement Agencies as published by the Department of Criminal Justice Training, Justice Cabinet, effective July 13, 1990, is incorporated by reference.

Section 2. The incorporated material can be inspected and copied at the Office of the Secretary of Justice, Bush Building, Second Floor, 403 Wapping Street, Frankfort, Kentucky 40601, between the hours of 8 a.m. and 4:30 p.m., local time prevailing, Monday through Friday.

W. MICHAEL TROOP, Secretary
APPROVED BY AGENCY: August 1, 1990
FILED WITH LRC: August 3, 1990 at 11 a.m.
PUBLIC HEARING: A public hearing on this regulation shall be held on Monday, September 24, 1990 at 10 a.m. at 403 Wapping Street, 2nd Floor, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by September 19, 1990, five days prior to 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. The 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. Christopher W. Johnson, Justice Cabinet, 403 Wapping Street, 2nd Floor, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Chris Johnson
(1) Type and number of entities affected: All state and local law enforcement agencies, approximately 500 of them.
(a) Direct and indirect costs or savings to those affected: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body: Provision of copies of incorporated material.
(a) Direct and indirect costs or savings: Same
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative available.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. The statutes apply equally to all law enforcement agencies.

JUSTICE CABINET
Office of the Secretary

500 KAR 9:060. Drug strategy.

RELATES TO: KRS 218A.435(7)(d)
STATUTORY AUTHORITY: KRS 218A.435(8)
NECESSITY AND FUNCTION: KRS 218A.435(7)(d) designates a portion of the trust fund to be expended by the Justice Cabint as payments to state or local law enforcement agencies. 500 KAR 9:040 states that the cabient will distribute those monies according to the statewide drug and violent crime strategy.

Section 1. The Statewide Drug and Violent Crime Strategy as published by the Justice Cabinet, effective January 1, 1990, is incorporated by reference.

Section 2. The incorporated material can be inspected and copied at the Office of the Secretary of Justice, Bush Building, Second Floor, 403 Wapping Street, Frankfort, Kentucky 40601, between the hours of 8 a.m. and 4:30 p.m., local time prevailing, Monday through Friday.

W. MICHAEL TROOP, Secretary
APPROVED BY AGENCY: August 1, 1990
FILED WITH LRC: August 3, 1990 at 11 a.m.
PUBLIC HEARING: A public hearing on this regulation shall be held on Monday, September 24, 1990 at 10 a.m. at 403 Wapping Street, 2nd Floor, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by September 19, 1990, five days prior to 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. The 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. Christopher W. Johnson, Justice Cabinet, 403 Wapping Street, 2nd Floor, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Chris Johnson
(1) Type and number of entities affected: All state and local law enforcement agencies, approximately 500 of them.
(a) Direct and indirect costs or savings to those affected: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body: Provision of copies of incorporated material.
(a) Direct and indirect costs or savings: Same
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative available.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. The statutes apply equally to all law enforcement agencies.

TRANSPORTATION CABINET
Department of Vehicle Regulation
Division of Motor Carriers

603 KAR 5:105. Annual permits for moving wood trusses.

RELATES TO: KRS 189.270
STATUTORY AUTHORITY: KRS 189.270
NECESSITY AND FUNCTION: KRS 189.270 authorizes the Department of Highways to issue annual permits for the movement of wood trusses exceeding legal dimensions. This regulation establishes the permit application procedures within the Transportation Cabinet and establishes movement requirements necessary in the interest of highway safety.

Section 1. Definitions. (1) "Daylight hours" means the period of a day from one-half (1/2) hour before sunrise until one-half (1/2) hour after sunset. However, it does not include any time when atmospheric conditions such as heavy rain, snow, sleet or fog render visibility lower than is ordinarily the case during that period of the day.
(2) "National holiday" means New Year's Day, Memorial Day (as observed on the last Monday in May), Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

Section 2. Permit Application. (1) Application for a permit to move a wood truss on a Kentucky highway shall only be made to the Department of Vehicle Regulation, Division of motor Carriers, Frankfort, Kentucky.
(2) An annual permit application or request shall specify the make, rated capacity, vehicle identification number, license number and state of registration, and name and address of the owner of the towing vehicle. In addition, it shall specify whether the motor carrier operating the towing vehicle is a for-hire or private carrier.

Section 3. Permit Required. No motor vehicle transporting wood trusses of a width greater than eight and one-half (8.5) feet shall be operated on any highway listed in 603 KAR 5:070, Section 2(2)(b) nor shall any vehicle with a width greater than eight (8) feet be operated on any other Kentucky highway unless, and until, a special written permit has been issued by the Department of Vehicle Regulation, Division of Motor Carriers either under the provisions of 603 KAR 5:075 or this administrative regulation.

Section 4. Annual Permits. (1) An annual permit shall not be issued for the movement of a motor vehicle transporting wood trusses if the vehicle or load exceeds twelve (12) feet in width.
(2) A movement of wood trusses under the provisions of an annual permit shall be on highways specified on the annual permit.
(3) An annual permit shall not be issued or used for the movement of wood trusses if the length of the trailer and towing unit combined exceeds ninety-five (95) feet in length.
(4) An annual permit shall not be issued or used for the movement of wood trusses if the length of the straight truck and load exceeds fifty-five (55) feet in length.

Section 5. Permit Cost. The issuance cost of an annual permit, as set forth in KRS 189.270, shall apply to the towing vehicle and the cost shall not be prorated.

Section 6. Safety Features. (1) One (1) lead escort vehicle is required for the movement of wood trusses where the width of the vehicle exceeds the legal width on all two (2) lane highways.
(2) Escort vehicles, either front or rear, may be required by the Transportation Cabinet where highway conditions dictate the need.
(3) Red or orange warning flags at least eighteen (18) inches square shall be displayed on both sides of the vehicle at the widest extremities of the vehicle or load.
(4) A warning sign shall be fastened to both the front of the power unit and the far end of

the towed unit or at the rear of the load. Each warning sign shall state "OVERSIZE LOAD" in black letters on a yellow background and shall not be less than seven (7) feet long and eighteen (18) inches high with a brush stroke of not less than one and four-tenth (1.4) inches.

(5) All overdimensional vehicles shall be marked and lighted in accordance with those requirements set forth in 601 KAR 1:005.

Section 7. Duplicate Permits. A duplicate permit which is needed to replace a lost or destroyed annual permit or to transfer the permit to another towing vehicle may be obtained from the Division of Motor Carriers by the payment of ten (10) dollars.

Section 8. Route Deviation. Prior approval shall be secured from the Division of Motor Carriers for any vehicle transporting wood trusses under an annual permit which deviates from the routes prescribed in the permit issued for the towing vehicle.

Section 9. Presentation of Permits. Permits shall be carried in the towing vehicles at all times and shall be presented, upon request, to any law enforcement officer or any authorized personnel of the Department of Vehicle Regulation for inspection.

Section 10. Permit Validity. Permits are valid during only daylight hours as defined in Section 1 of this regulation, from Monday through Saturday noon, except for those periods before, during and after national holidays. In connection with these holidays, travel is not permitted from noon of the day preceding the national holiday until daylight of the next permissible day. If the national holiday occurs on Sunday or Monday the restricted period shall extend from noon of the preceding Friday to daylight of the following Tuesday.

MILO D. BRYANT, Secretary
O. GILBERT NEWMAN, State Highway Engineer
JEROME LENTZ, Commissioner
APPROVED BY AGENCY: July 6, 1990
FILED WITH LRC: July 27, 1990 at 3 p.m.

PUBLIC HEARING: A public comment hearing on this administrative regulation will be held on September 25, 1990, at 1 p.m., local prevailing time in the 4th floor hearing room of the State Office Building located at the corner of High and Clinton Streets, Frankfort, Kentucky. Any person who intends to attend this hearing must do so in writing by September 20, 1990, so notify this agency. If no notification of intent to attend the hearing is received by this date the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given the opportunity to comment on the administrative regulation. A transcript of the public comment hearing will not be made unless a written request for a transcript is made and then at the requestor's expense. If you do not wish to attend the public hearing, you may submit written comments on the administrative regulation. If the hearing is held, written comments will be accepted until the close of the hearing. If the hearing is cancelled, written comments will only be accepted until September 20, 1990. Send written notification of intent to attend the public comment hearing or written comments on the administrative regulation to: Sandra G. Pullen, Executive's Staff Advisor, Transportation Cabinet, State Office Building, Frankfort, Kentucky 40622,(502)564-4890.

REGULATORY IMPACT ANALYSIS

Contact Person: Sandra G. Pullen

(1) Type and number of entities affected: 4-6 transporters of wood trusses.

(a) Direct and indirect costs or savings to those affected: None as a result of this administrative regulation.

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements: The applicant must submit an application for this new annual permit which describes the vehicle for which he is requesting a permit.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None as a result of this administrative regulation.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: The cabinet will review annual permit application requests rather than daily trip permit requests.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: The Transportation Cabinet considered issuing annual permits for the movement of 14-foot wide loads as an alternative. It was rejected because many of the highways in Kentucky cannot safely accommodate a 14-foot wide load. Each route over which a 14-foot wide load is to be moved must be individually evaluated to ensure that it can safely accommodate something that wide.

(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: HB 707 passed in the 1990 Regular Session established a new annual permit for transporting overdimensional wood trusses. The Transportation Cabinet had to establish application and safety requirements by regulation.

TIERING: Is tiering applied? Yes. The safety requirements are tiered based on the width of the vehicle and load and the number of lanes in and type of highway.

TRANSPORTATION CABINET
Department of Vehicle Regulation
Division of Motor Carriers

603 KAR 5:111. Permits for moving mobile homes in excess of fourteen (14) feet in width.

RELATES TO: KRS 189.270
STATUTORY AUTHORITY: KRS 189.270
NECESSITY AND FUNCTION: KRS 189.270 authorizes the Department of Highways to issue permits for

the movement of house trailers exceeding fourteen (14) feet in width. This regulation establishes the permit application procedures within the Transportation Cabinet and establishes movement requirements necessary in the interest of highway safety.

Section 1. Definitions. (1) "National holiday" means New Year's Day, Memorial Day (as observed on the last Monday in May), Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

(2) "House trailer" means a mobile home or manufactured home but not a modular home.

Section 2. Permit Application. (1) Application for a permit to move a house trailer with a width in excess of fourteen (14) feet on a Kentucky highway shall only be made to the Department of Vehicle Regulation, Division of Motor Carriers, Frankfort, Kentucky.

(2) A single trip permit application or request to move a house trailer which exceed fourteen (14) feet in width shall specify the make of the towing vehicle, the vehicle's license number and state of registration, the name and address of the owner, dates of travel and specific routes of travel requested.

(3) No house trailer with a width greater than fourteen (14) feet shall be towed on any Kentucky highway unless, and until, a special written single-trip permit which specifies the routing has been issued by the Department of Vehicle Regulation, Division of Motor Carriers.

(4) Annual permits for house trailers over twelve (12) feet in width shall not be issued.

Section 3. Single-trip Permits. (1) A single-trip permit shall be valid for no more than ten (10) days.

(2) A single-trip permit shall not be issued for any unit, including towing vehicle and house trailer combined, which exceeds ninety-five (95) feet in length or sixteen (16) feet in width including the usual and ordinary overhang. However, mirrors on the towing vehicle shall not be considered in making the determination of width.

(3) A single-trip permit shall specify the highways to be used in the movement of the house trailer.

Section 4. Permit Cost. The issuance cost of a single trip permit, as set forth in KRS 189.270, shall apply to the towing vehicle.

Section 5. Safety Requirements. (1) One (1) lead escort vehicle and one (1) rear escort vehicle shall be required for the movement of house trailers greater than fourteen (14) feet in width on all highways.

(2) Red or orange fluorescent flags at least eighteen (18) inches square shall be displayed on either side of the vehicle or house trailer at the widest extremity and two (2) more at the extreme rear of the house trailer to indicate maximum width. The flags shall be securely fastened to the house trailer by at least one (1) corner or securely mounted on a staff.

(3) Each escort and towing vehicle shall have an amber flashing light on the roof. The house trailer shall be equipped with four (4) amber flashing lights. One (1) shall be located on each outermost front and each outermost rear corner of the house trailer. Each is to be placed not less than six (6) feet above the roadway.

(4) All overdimensional house trailers and towing vehicles shall be marked and lighted in accordance with those requirements set forth in 601 KAR 1:005.

(5) Both the front and rear escort vehicles and the towing vehicle shall maintain radio communication with each other at all times.

(6) Oversize load signs shall be placed on the front of the towing vehicle and the rear of the house trailer any time it is operating on a highway. Each warning sign shall state in black letters on a yellow background, "OVERSIZE LOAD", and shall be at least seven (7) feet long and eighteen (18) inches high with a brush stroke of at least one and four tenths (1.4) inches.

Section 6. Presentation of Permits. Permits shall be carried in the towing vehicles at all times and shall be presented for inspection, upon request, to any law enforcement officer or any authorized personnel of the Department of Vehicle Regulation.

Section 7. Permit Validity. (1) Permits shall not be valid from noon of the day preceding a national holiday until daylight of the next permissible day. If the national holiday occurs on Sunday or Monday the restricted period shall extend from noon of the preceding Friday until 9 a.m. of the following Tuesday.

(2) Permits are valid from Monday through Friday from 9 a.m. until 3 p.m. local prevailing time.

(3) If satisfactory proof of an emergency and traffic control is furnished the Division of Motor Carriers, moves may be authorized during the restricted hours.

(4) Permits may be restricted as to hours and days of operation for local special conditions such as celebrations, festivals, fairs, or highway construction or maintenance.

Section 8. Movement on Two (2) or Four (4) Lanes. (1) Moves of house trailers more than fourteen (14) feet wide shall be limited to highways of four (4) or more lanes and to the shortest and best two (2) lane route designated by the Department of Vehicle Regulation, Division of Motor Carriers to be used to the unit's ultimate destination. The department shall deny movements on any routes deemed unsuitable for move.

Section 9. Weather Conditions. Moves of house trailers more than fourteen (14) feet wide shall not be made on any highway when wind velocity or wind gust velocity exceeds twenty-five (25) MPH or when any adverse weather conditions would cause these moves to be dangerous. House trailers that exceed fourteen (14) feet in width shall not be moved when the road is wet, partially or fully covered by sleet, snow, or ice or when visibility is impaired by rain, sleet, snow, smog, fog, or other atmospheric conditions. Moves of house trailer which exceed fourteen (14) feet in width shall not be made on two (2) lane highways when turf or dirt shoulders are soft or muddy.

Section 10. Brakes. The number, type, size and design of brake assemblies required to assist the towing vehicle in controlling and stopping a house trailer shall be sufficient to assure that the maximum stopping distance from an initial

velocity of twenty (20) miles per hour does not exceed forty (40) feet. When a house trailer is not equipped with brakes on all axles, the towing unit shall be certified as having sufficient brake assembles to meet the braking distance specified in this section. This certification shall be in the form of a manufacturer's statement, documented technical data, or adequate engineering analysis or its equivalent, specifying that the braking distance requirement has been met. This certificate shall be carried in the towing unit at all times and shall be presented upon request, to any law enforcement officer.

Section 11. Speed Limit. The speed limit for the movement of house trailers greater than fourteen (14) feet wide on interstate highways is forty-five (45) miles per hour. On other highways the speed limit is thirty-five (35) miles per hour, unless posted minimum speed exceeds this, then the speed limit may be increased to the minimum posted speed.

Section 12. Traffic Control. (1) When a house trailer with a width greater than fourteen (14) feet is crossing a bridge on a two (2) lane road, all other traffic shall be stopped.

(2) The Department of Vehicle Regulation may require that special traffic controls be implemented or stopping of traffic be accomplished whenever the conditions indicate it is necessary to maintain traffic safety.

Section 13. Responsibilities of Permit Holder. The permit holder shall be responsible to pay for or replace any sign, traffic control device, guardrail, or other property damaged or destroyed during the move of the house trailer.

MILO D. BRYANT, Secretary
JEROME LENTZ, Commissioner
GILBERT NEWMAN, State Highway Engineer
APPROVED BY AGENCY: July 26, 1990
FILED WITH LRC: July 27, 1990 at 3 p.m.

PUBLIC HEARING: A public comment hearing on this administrative regulation will be held on September 25, 1990, at 1:30 p.m., local prevailing time in the 4th floor hearing room of the State Office Building. The State Office Building is located on the corner of High and Clinton Streets, Frankfort, Kentucky. Any person who attends will be given the opportunity to comment on the administrative regulation. A transcript of the public comment hearing will not be made unless a written request for a transcript is made and then at the requestor's expense. If you do not wish to attend the public hearing, you may submit written comments on the administrative regulation. If the hearing is held, written comments will be accepted until the close of the hearing. If the hearing is cancelled, written comments will only be accepted until September 20, 1990. Send written notification of intent to attend the public comment hearing or written comments on the administrative regulation to: Sandra G. Pullen, Executive's Staff Advisor, Transportation Cabinet, State Office Building, Frankfort, Kentucky 40622,(502)564-4890.

REGULATORY IMPACT ANALYSIS

Contact Person: Sandra G. Pullen
(1) Type and number of entities affected: All transporters of mobile homes operating in Kentucky.

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

1. First year: The safety conditions which must be met to transport a 16-foot wide mobile home in Kentucky will cost an average of $100 per move in large part because of the escort requirements.

2. Continuing costs or savings: The safety conditions which must be met to transport a 16-foot wide mobile home in Kentucky will cost an average of $100 per move in large part because of the escort requirements.

3.Additional factors increasing or decreasing costs (note any effects upon competition): Since everyone transporting one of these wider mobile homes have the same requirements, there should be no impact on competition.

(b) Reporting and paperwork requirements: Each time a 16-foot wide mobile home is to be moved the transporter must apply for a permit.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: Adopting the same safety requirements currently set forth in 603 KAR 5:110 was rejected. They were rejected because Kentucky has agreed with many other midwestern states to have uniform requirements in the transportation of overdimensional loads.

(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: House Bill 567 passed by the 1990 General Assembly authorized the issuance of permits for the movement of mobile homes up to 16-foot wide. This administrative regulation is necessary to establish the permit application process and the safety requirements for the movement of 16-foot wide mobile homes.

TIERING: Is tiering applied? Yes. The safety requirements are tiered based on the number of lanes in the highway over which the mobile home is to be transported.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of School Administration & Finance

702 KAR 7:100. Eligibility of fifth and sixth graders for participation on more than one (1) athletic team at the same time.

RELATES TO: KRS 156.070, 156.160
STATUTORY AUTHORITY: KRS 156.070, 156.160
NECESSITY AND FUNCTION: KRS 156.070 gives the State Board for Elementary and Secondary Education the management and control of interscholastic athletics in the common schools

and the authority to designate an organization or agency to manage such athletics; and KRS 156.160 requires the State Board for Elementary and Secondary Education to adopt regulations deemed necessary for the physical welfare and safety of public school children. This regulation regulates the eligibility of fifth and sixth grade students for participation on more than one (1) team at the same time.

Section 1. Pupils in grades five (5) and six (6) shall not participate on more than one (1) school sponsored team at the same time in the same sport (including elementary and high school teams).

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the State Board for Elementary and Secondary Education, as required by KRS 156.070(4).

JOHN H. BROCK, Superintendent

HENRY E. POGUE, IV, Chairman
APPROVED BY AGENCY: August 14, 1990
FILED WITH LRC: August 14, 1990 at 4 p.m.
PUBLIC HEARING: A public hearing on this regulation will be held on September 25, 1990 at 10 a.m. in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by September 20, 1990, five days prior to 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. The 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: Dr. Dan H. Branham, Secretary, State Board for Elementary and Secondary Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

CONTACT PERSON: J. Gary Bale, General Counsel, Office of Legal Services, Department of Education, 120 Capital Plaza Tower, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Gary Bale
(1) Type and number of entities affected: 176 local school districts and fifth and sixth graders statewide.
(a) Direct and indirect costs or savings to those affected: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body: None
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: Only alternative allowing fifth and sixth graders to play on different teams several nights a week - not desirable from an application to studies point of view.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. Fifth and sixth graders need to be uniformly excluded from participation on multiple teams at the same time.

EASTERN KENTUCKY UNIVERSITY
Board of Regents

765 KAR 1:010. Acquisition and disbursement of funds, accounting system - records and annual report.

RELATES TO: KRS 164A.560, 164A.565
STATUTORY AUTHORITY: KRS 164A.560
NECESSITY AND FUNCTION: The governing boards of the public institutions of higher education may elect to perform the financial management functions of KRS 164A.555 to 164A.630 by issuing regulations to do so. This regulation implements the provisions of KRS 164A.560 and 164A.565 at Eastern Kentucky University.

Section 1. The Eastern Kentucky University Board of Regents elects to perform the financial management functions set forth in KRS 164A.560, Section (2), related to the receipt, deposit, collection, retention, investment, disbursement and accounting of all funds; and KRS 164A.565 related to the installation of and accrual basis accounting system, other records and annual reports.

Section 2. The Eastern Kentucky University Board of Regents elects to comply with KRS 164A.560 Section (2)(b) to limit disbursements to the accounts and for the purposes for which the state appropriations, or other monies have been received for through the enacting resolution of the institution's annual operating budget.

Section 3. The Eastern Kentucky University Board of Regents shall use an accrual basis accounting system and fund structure that conforms with generally accepted accounting principles and procedures established for colleges and universities by the National Association of College and University Business Officers and the American Institute of Certified Public Accountants, and shall act to ensure further compliance with Sections (2), (3), (6), (7), and (8) of KRS 164A.565.

JAMES T. GILBERT, Chairman
APPROVED BY AGENCY: August 2, 1990

FILED WITH LRC: August 14, 1990 at 4 p.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 21, 1990 at 10 a.m. at Eastern Kentucky University. Individuals interested in attending this hearing shall notify this agency in writing by September 16, 1990, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Mr. C. E. Baldwin, Vice President for Business Affairs, P. O. Box 15A, Eastern Kentucky University, 120 Jones Building, Richmond, Kentucky 40475, (606)622-4642.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: C. E. Baldwin
(1) Type and number of entities affected: Since the university internally enacted this regulation in 1982 and given that the purpose of this regualtion is only to codify the elective provisions of KRS Chapter 164A, there are no new entities which will be affected. The original entities affected were: Eastern Kentucky University, Treasury Department, Division of Accounts, State Computer Services, Vendors and others doing business with the university.
(a) Direct and indirect costs or savings to those affected:
1. First year: During the first year in which the university operated under the internally authorized regulation it greatly reduced the number of checks issued, the processing and filing of documents, the computer time involved in processing transactions, and the quantity of computer reports produced. The codification of the regulation will not result in any additional savings.
2. Continuing costs or savings: Same as above.
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: The internal authorization of this regulation resulted in fewer layers of the decision-making process.
(2) Effects on the promulgating administrative body: The internal authorization of this regulation improved administrative functions through closer, on-site management which allows for greater control and flexibility.
(a) Direct and indirect costs or savings:
1. First year: The first year of internal authorization of this regulation resulted in more rapid processing of transactions with less paperwork. The actual codification of the regulation will not affect costs or savings.
2. Continuing costs or savings: Same as above.
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: The internal authorization of this regulation resulted in a significant decrease in the paperwork processed in Frankfort with increased accountability at the university level.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: This is the only alternative permitted by KRS Chapter 164A.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: None
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: The purpose of this regulation is to codify the elective provisions of KRS Chapter 164A which the university has previously internally authorized and is currently following. This internally authorized regulation implemented new statutory delegation of certain financial management functions from the Executive Branch (Finance and Administration Cabinet) to the university for the purpose of increasing efficiency and accountability.
TIERING: Was tiering applied? No. Tiering was not applied because the university has uniform standards.

EASTERN KENTUCKY UNIVERSITY
Board of Regents

775 KAR 1:020. Delegation of financial management responsibility.

RELATES TO: KRS 164A.560, 164A.565, 164A.575, 164A.620
STATUTORY AUTHORITY: KRS 164A.560
NECESSITY AND FUNCTION: The governing board of the public institutions of higher education may elect to perform the financial management functions of KRS 164A.555 to 164A.630 by issuing regulations to do so. This regulation implements the provision of KRS 164A.560 at Eastern Kentucky University.

Section 1. The Eastern Kentucky University Board of Regents, under the provision of KRS 164A.560, elects to delegate responsibility for the financial management provisions of KRS 164A.560, 164A.565, 164A.575 and 164A.620 to the president of the university. Further, the Board of Regents delegates to the president responsibility for submitting to the State Property and Buildings Commission information and requests for approval of any bond project approved by the Board of Regents.

JAMES T. GILBERT, Chairman
APPROVED BY AGENCY: August 2, 1990
FILED WITH LRC: August 14, 1990 at 4 p.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 21, 1990 at 10 a.m. at Eastern Kentucky University. Individuals interested in attending this hearing shall notify this agency in writing by September 16, 1990, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed

administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Mr. C. E. Baldwin, Vice President for Business Affairs, P. O. Box 15A, Eastern Kentucky University, 120 Jones Building, Richmond, Kentucky 40475, (606)622-4642.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: C. E. Baldwin

(1) Type and number of entities affected: Since the university internally enacted this regulation in 1982 and given that the purpose of this regualtion is only to codify the elective provisions of KRS Chapter 164A, there are no new entities which will be affected. The original entities affected were: Eastern Kentucky University, Treasury Department, Division of Accounts, State Computer Services, Vendors and others doing business with the university.

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

1. First year: During the first year in which the university operated under the internally authorized regulation it greatly reduced the number of checks issued, the processing and filing of documents, the computer time involved in processing transactions, and the quantity of computer reports produced. The codification of the regulation will not result in any additional savings.

2. Continuing costs or savings: Same as above.

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

(b) Reporting and paperwork requirements: The internal authorization of this regulation resulted in fewer layers of the decision-making process.

(2) Effects on the promulgating administrative body: The internal authorization of this regulation improved administrative functions through closer, on-site management which allows for greater control and flexibility.

(a) Direct and indirect costs or savings:

1. First year: The first year of internal authorization of this regulation resulted in more rapid processing of transactions with less paperwork. The actual codification of the regulation will not affect costs or savings.

2. Continuing costs or savings: Same as above.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: The internal authorization of this regulation resulted in a significant decrease in the paperwork processed in Frankfort with increased accountability at the university level.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: This is the only alternative permitted by KRS Chapter 164A.

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

(a) Necessity of proposed regulation if in conflict: None

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

(6) Any additional information or comments: The purpose of this regulation is to codify the elective provisions of KRS Chapter 164A which the university has previously internally authorized and is currently following. This internally authorized regulation implemented new statutory delegation of certain financial management functions from the Executive Branch (Finance and Administration Cabinet) to the university for the purpose of increasing efficiency and accountability.

TIERING: Was tiering applied? No. Tiering was not applied because the university has uniform standards.

EASTERN KENTUCKY UNIVERSITY
Board of Regents

775 KAR 1:030. Annual audit.

RELATES TO: KRS 164A.570

STATUTORY AUTHORITY: KRS 164A.560

NECESSITY AND FUNCTION: The governing boards of the public institutions of higher education may elect to perform the financial management functions of KRS 164A.555 to 164A.630 by issuing regulations to do so. This regulation implements the provision of KRS 164A.570 at Eastern Kentucky University.

Section 1. The Eastern Kentucky University Board of Regents elects to engage a qualified firm of certified public accountants for the purpose of submitting an independent opinion concerning the internal accounting controls and compliance with the provisions of KRS 164A.560, 164A.575, and 164A.620. The engagement of the qualified firm, scope of the audit, and report of findings shall be in accordance with the provisions of KRS 164A.570.

JAMES T. GILBERT, Chairman

APPROVED BY AGENCY: August 2, 1990

FILED WITH LRC: August 14, 1990 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 21, 1990 at 10 a.m. at Eastern Kentucky University. Individuals interested in attending this hearing shall notify this agency in writing by September 16, 1990, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Mr. C. E. Baldwin, Vice President for Business Affairs, P. O. Box 15A, Eastern Kentucky University, 120 Jones Building, Richmond, Kentucky 40475, (606)622-4642.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: C. E. Baldwin
(1) Type and number of entities affected: Since the university internally enacted this regulation in 1982 and given that the purpose of this regualtion is only to codify the elective provisions of KRS Chapter 164A, there are no new entities which will be affected. The original entities affected were: Eastern Kentucky University, Treasury Department, Division of Accounts, State Computer Services, Vendors and others doing business with the university.
(a) Direct and indirect costs or savings to those affected:
1. First year: During the first year in which the university operated under the internally authorized regulation it greatly reduced the number of checks issued, the processing and filing of documents, the computer time involved in processing transactions, and the quantity of computer reports produced. The codification of the regulation will not result in any additional savings.
2. Continuing costs or savings: Same as above.
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: The internal authorization of this regulation resulted in fewer layers of the decision-making process.
(2) Effects on the promulgating administrative body: The internal authorization of this regulation improved administrative functions through closer, on-site management which allows for greater control and flexibility.
(a) Direct and indirect costs or savings:
1. First year: The first year of internal authorization of this regulation resulted in more rapid processing of transactions with less paperwork. The actual codification of the regulation will not affect costs or savings.
2. Continuing costs or savings: Same as above.
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: The internal authorization of this regulation resulted in a significant decrease in the paperwork processed in Frankfort with increased accountability at the university level.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: This is the only alternative permitted by KRS Chapter 164A.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: None
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: The purpose of this regulation is to codify the elective provisions of KRS Chapter 164A which the university has previously internally authorized and is currently following. This internally authorized regulation implemented new statutory delegation of certain financial management functions from the Executive Branch (Finance and Administration Cabinet) to the university for the purpose of increasing efficiency and accountability.
TIERING: Was tiering applied? No. Tiering was not applied because the university has uniform standards.

EASTERN KENTUCKY UNIVERSITY
Board of Regents

775 KAR 1:040. Purchase - inventories - sales of surplus property - capital construction procedures.

RELATES TO: KRS 164A.575
STATUTORY AUTHORITY: KRS 164A.560
NECESSITY AND FUNCTION: The governing boards of the public institutions of higher education may elect to perform the financial management functions of KRS 164A.555 to 164A.630 by issuing regulations to do so. This regulation implements the provision of KRS 164A.575 at Eastern Kentucky University.

Section 1. The Eastern Kentucky University Board of Regents, under the provisions of KRS 164A.560, elects to purchase and manage interests in real property, contractual services, rentals of all types, supplies, materials, equipment, printing, and services in accordance with sections (1), (2), (3), (4), (5), (6), (7), (8), (10), (11), and (12) of KRS 164A.575.

JAMES T. GILBERT, Chairman
APPROVED BY AGENCY: August 2, 1990
FILED WITH LRC: August 14, 1990 at 4 p.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 21, 1990 at 10 a.m. at Eastern Kentucky University. Individuals interested in attending this hearing shall notify this agency in writing by September 16, 1990, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Mr. C. E. Baldwin, Vice President for Business Affairs, P. O. Box 15A, Eastern Kentucky University, 120 Jones Building, Richmond, Kentucky 40475, (606)622-4642.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: C. E. Baldwin
(1) Type and number of entities affected: Since the university internally enacted this regulation in 1982 and given that the purpose of this regualtion is only to codify the elective provisions of KRS Chapter 164A, there are no new entities which will be affected. The original entities affected were: Eastern Kentucky University, Treasury Department, Division of Accounts, State Computer Services, Vendors and others doing business with the university.
(a) Direct and indirect costs or savings to those affected:

1. First year: During the first year in which the university operated under the internally authorized regulation it greatly reduced the number of checks issued, the processing and filing of documents, the computer time involved in processing transactions, and the quantity of computer reports produced. The codification of the regulation will not result in any additional savings.

2. Continuing costs or savings: Same as above.

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

(b) Reporting and paperwork requirements: The internal authorization of this regulation resulted in fewer layers of the decision-making process.

(2) Effects on the promulgating administrative body: The internal authorization of this regulation improved administrative functions through closer, on-site management which allows for greater control and flexibility.

(a) Direct and indirect costs or savings:

1. First year: The first year of internal authorization of this regulation resulted in more rapid processing of transactions with less paperwork. The actual codification of the regulation will not affect costs or savings.

2. Continuing costs or savings: Same as above.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: The internal authorization of this regulation resulted in a significant decrease in the paperwork processed in Frankfort with increased accountability at the university level.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: This is the only alternative permitted by KRS Chapter 164A.

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

(a) Necessity of proposed regulation if in conflict: None

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

(6) Any additional information or comments: The purpose of this regulation is to codify the elective provisions of KRS Chapter 164A which the university has previously internally authorized and is currently following. This internally authorized regulation implemented new statutory delegation of certain financial management functions from the Executive Branch (Finance and Administration Cabinet) to the university for the purpose of increasing efficiency and accountability.

TIERING: Was tiering applied? No. Tiering was not applied because the university has uniform standards.

EASTERN KENTUCKY UNIVERSITY
Board of Regents

775 KAR 1:050. Issuance of bonds.

RELATES TO: KRS 164A.605

STATUTORY AUTHORITY: KRS 164A.560

NECESSITY AND FUNCTION: The governing boards of the public institutions of higher education may elect to perform the financial management functions of KRS 164A.555 to 164A.630 by issuing regulations to do so. This regulation implements the provision of KRS 164A.605 at Eastern Kentucky University.

Section 1. The Eastern Kentucky University Board of Regents, under the provision of KRS 164A.560, elects the authority to issue bonds subject to the conditions set forth in KRS 164A.605.

JAMES T. GILBERT, Chairman

APPROVED BY AGENCY: August 2, 1990

FILED WITH LRC: August 14, 1990 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 21, 1990 at 10 a.m. at Eastern Kentucky University. Individuals interested in attending this hearing shall notify this agency in writing by September 16, 1990, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Mr. C. E. Baldwin, Vice President for Business Affairs, P. O. Box 15A, Eastern Kentucky University, 120 Jones Building, Richmond, Kentucky 40475, (606)622-4642.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: C. E. Baldwin

(1) Type and number of entities affected: Since the university internally enacted this regulation in 1982 and given that the purpose of this regualtion is only to codify the elective provisions of KRS Chapter 164A, there are no new entities which will be affected. The original entities affected were: Eastern Kentucky University, Treasury Department, Division of Accounts, State Computer Services, Vendors and others doing business with the university.

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

1. First year: During the first year in which the university operated under the internally authorized regulation it greatly reduced the number of checks issued, the processing and filing of documents, the computer time involved in processing transactions, and the quantity of computer reports produced. The codification of the regulation will not result in any additional savings.

2. Continuing costs or savings: Same as above.

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

(b) Reporting and paperwork requirements: The internal authorization of this regulation resulted in fewer layers of the decision-making process.

(2) Effects on the promulgating administrative body: The internal authorization of this regulation improved administrative functions through closer, on-site management which allows for greater control and flexibility.

(a) Direct and indirect costs or savings:
1. First year: The first year of internal authorization of this regulation resulted in more rapid processing of transactions with less paperwork. The actual codification of the regulation will not affect costs or savings.
2. Continuing costs or savings: Same as above.
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: The internal authorization of this regulation resulted in a significant decrease in the paperwork processed in Frankfort with increased accountability at the university level.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: This is the only alternative permitted by KRS Chapter 164A.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: None
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: The purpose of this regulation is to codify the elective provisions of KRS Chapter 164A which the university has previously internally authorized and is currently following. This internally authorized regulation implemented new statutory delegation of certain financial management functions from the Executive Branch (Finance and Administration Cabinet) to the university for the purpose of increasing efficiency and accountability.
TIERING: Was tiering applied? No. Tiering was not applied because the university has uniform standards.

EASTERN KENTUCKY UNIVERSITY
Board of Regents

775 KAR 1:060. Fund for excellence.

RELATES TO: KRS 164A.410, 164A.620
STATUTORY AUTHORITY: KRS 164A.560
NECESSITY AND FUNCTION: The governing boards of the public institutions of higher education may elect to perform the financial management functions of KRS 164A.555 to 164A.630 by issuing regulations to do so. This regulation implements the provision of KRS 164A.620 at Eastern Kentucky University.

Section 1. The Eastern Kentucky University Board of Regents, under the provisions of KRS 164A.560, elects and authorizes the establishment of a fund for excellence under the conditions and for the purpose as set forth in KRS 164A.620.

JAMES T. GILBERT, Chairman
APPROVED BY AGENCY: August 2, 1990
FILED WITH LRC: August 14, 1990 at 4 p.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 21, 1990 at 10 a.m. at Eastern Kentucky University. Individuals interested in attending this hearing shall notify this agency in writing by September 16, 1990, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Mr. C. E. Baldwin, Vice President for Business Affairs, P. O. Box 15A, Eastern Kentucky University, 120 Jones Building, Richmond, Kentucky 40475, (606)622-4642.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: C. E. Baldwin
(1) Type and number of entities affected: Since the university internally enacted this regulation in 1982 and given that the purpose of this regualtion is only to codify the elective provisions of KRS Chapter 164A, there are no new entities which will be affected. The original entities affected were: Eastern Kentucky University, Treasury Department, Division of Accounts, State Computer Services, Vendors and others doing business with the university.
(a) Direct and indirect costs or savings to those affected:
1. First year: During the first year in which the university operated under the internally authorized regulation it greatly reduced the number of checks issued, the processing and filing of documents, the computer time involved in processing transactions, and the quantity of computer reports produced. The codification of the regulation will not result in any additional savings.
2. Continuing costs or savings: Same as above.
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: The internal authorization of this regulation resulted in fewer layers of the decision-making process.
(2) Effects on the promulgating administrative body: The internal authorization of this regulation improved administrative functions through closer, on-site management which allows for greater control and flexibility.
(a) Direct and indirect costs or savings:
1. First year: The first year of internal authorization of this regulation resulted in more rapid processing of transactions with less paperwork. The actual codification of the regulation will not affect costs or savings.
2. Continuing costs or savings: Same as above.
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: The internal authorization of this regulation resulted in a significant decrease in the paperwork processed in Frankfort with increased accountability at the university level.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: This is the only alternative permitted by KRS Chapter 164A.
(5) Identify any statute, administrative

regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: None
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: The purpose of this regulation is to codify the elective provisions of KRS Chapter 164A which the university has previously internally authorized and is currently following. This internally authorized regulation implemented new statutory delegation of certain financial management functions from the Executive Branch (Finance and Administration Cabinet) to the university for the purpose of increasing efficiency and accountability.
TIERING: Was tiering applied? No. Tiering was not applied because the university has uniform standards.

WORKFORCE DEVELOPMENT CABINET
Department for Adult and Technical Education

780 KAR 6:010. Classification plan.

RELATES TO: HB 814 §5 (1990 RS)
STATUTORY AUTHORITY: HB 814 §5 (1990 RS)
NECESSITY AND FUNCTION: Section 5 of HB 814 (1990 RS) requires the State Board for Adult and Technical Education to promulgate administrative regulations, consistent with the provisions of Section 5 of HB 814 (1990 RS), which govern the classification plan for unclassified service in the Department for Adult and Technical Education so that the same qualifications may reasonably be required for all positions in the same job classification and the same schedule of pay equitably applied in accordance with requirements of the statutes.

Section 1. General Provisions. The commissioner shall prepare and recommend through the Secretary of the Workforce Development Cabinet to the State Board for Adult and Technical Education and to the Governor a classification plan for adoption. The plan shall be based upon similarity of duties performed and responsibilities assumed so that the same qualifications may reasonably be required and the same schedule of pay may be equitably applied to all positions in the same class. Each position shall be allocated to its proper class in the classification plan. The classification plan shall include for each class of position an appropriate title, description of duties and responsibilities, and the required education, experience, and other qualifications.

Section 2. Interpretation of Class Specifications. (1) Class specifications are descriptive and explanatory. They are designed to indicate the kinds of positions which should be allocated to the various job classifications as determined by their characteristics and duties or responsibilities.
(2) Characteristics of a class are general statements indicating the level of responsibility and discretion of positions in that job classification.
(3) Examples of duties or responsibilities are not to be construed as describing what the duties or responsibilities of any position shall be and are not to be construed as limiting the Commissioner's ability to take, add to, or otherwise alter the duties and responsibilities of a position. The use of an individual expression or illustration as to duties or responsibilities shall not be regarded as excluding assignments of others not mentioned which are of similar kind or quality.
(4) Minimum requirements are comprehensive statements of the minimum background as to education, experience, and other qualifications which will be required in all cases as evidence of an appointee's ability to perform the work properly.

Section 3. Official Copy of Class Specifications. (1) The Department for Adult and Technical Education shall maintain a master set for all approved class specifications. Such specifications shall constitute the official class specifications for the classification plan. The copies of the specification of each job classification shall indicate the date of adoption or the last revision of the specification.
(2) The Department for Adult and Technical Education shall provide class specifications for inspection to any employee or the public under reasonable conditions during regular business hours.
(3) Title of position. The title of the job classification to which a position has been allocated shall be used to designate such position in all payroll and other official records, documents, vouchers, and communications in connection with all personnel processes. For purposes of internal administration or for any other purpose, not involving the personnel processes, any office title, abbreviation or code symbol may be used in lieu of the class title.

GEORGE R. SIEMENS, JR., Chairman
APPROVED BY AGENCY: July 17, 1990
FILED WITH LRC: August 9, 1990 at 9 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 21, 1990 at 10 a.m. EDT in the Ground Floor Auditorium, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by September 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 this date, the hearing may be cancelled. Those persons wishing to attend and testify shall contact in writing: Secretary, State Board of Adult and Technical Education, 2013 Capital Plaza Tower, Frankfort, KY 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Audrey T. Carr
(1) Type and number of entities affected: Approximately 40 unclassified employees in the Department for Adult & Technical Education.
(a) Direct and indirect costs or savings to those affected: No change.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: No change.

(2) Effects on the promulgating administrative body: No significant change.
(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: Eliminates some paperwork from the Department of Personnel, but retains such requirements in the Department for Adult and Technical Education.
(3) Assessment of anticipated effect on state and local revenues: No effect.
(4) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable.
(5) Identify any statute, rule, or regulation or governmental 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 regulation with conflicting provisions:
(6) Any additional information or comments: This regulation is necessary to be established under Section 5 of HB 814 (1990 RS) which moves authority for personnel regulations for unclassified staff in the Department for Adult and Technical Education under the authority of the State Board for Adult and Technical Education.
TIERING: Was tiering applied? Yes.

WORKFORCE DEVELOPMENT CABINET
Department for Adult and Technical Education

780 KAR 6:020. Compensation plan.

RELATES TO: HB 814 §5 (1990 RS)
STATUTORY AUTHORITY: HB 814 §5 (1990) RS)
NECESSITY AND FUNCTION: Section 5 of HB 814 (1990 RS) requires the State Board for Adult and Technical Education to promulgate comprehensive regulations consistent with the provisions of Section 5 of HB 814 (1990 RS) which govern the pay plan for all unclassified service in the Department for Adult and Technical Education. This regulation is to assure uniformity and equity in administration of the pay plan in accordance with statutory requirements.

Section 1. General Provision. The commissioner shall prepare and recommend through the Secretary of the Workforce Development Cabinet to the State Board for Adult and Technical Education and the Secretary of the Finance and Administrative Cabinet a pay plan for all aforementioned employees in the unclassified service taking into account but not limited to such factors as:
(1) The relative levels of duties and responsibilities of various classes of positions;
(2) Rates paid for comparable positions elsewhere; and
(3) The state's financial resources.
Such pay shall become effective upon approval by the Governor after submission by the commissioner through the Secretary of the Workforce Development Cabinet and the Secretary of the Department of Finance. Amendments to the pay plan may be made in the same manner. Each employee shall be appointed at a rate set forth within the pay plan for the position in which he is employed.

Section 2. Appointments. New unclassified service employees or reentering unclassified service employees shall be appointed at the salary within the salary structure for unclassified service employees commensurate with education level and experience.

Section 3. Salary Adjustments. (1) Promotion. A certified or equivalent employee who is promoted to the unclassified service may receive a five (5) percent salary increase at the time of promotion. If the promotion is to a position which constitutes an unusual increase in the level of responsibility, the commissioner may grant upon promotion a ten (10) percent to twenty (20) percent salary increase over the employee's previous salary. Upon the successful completion of a six (6) month promotional probationary period, an unclassified employee may receive at the discretion of the commissioner a five (5) percent promotional increase at the beginning of the month following completion of the probationary period.
(2) Demotion. An unclassified employee in the Department for Adult and Technical Education who is demoted to another position in the unclassified service shall have his salary adjusted in accordance with the appropriate salary schedule.
(3) Other salary adjustments.
(a) The Commissioner for Adult and Technical Education may authorize performance bonuses in lump sum payments for outstanding job performance in the unclassified service in any fiscal year in which monies are available. The criteria for such awards shall be approved by the State Board for Adult and Technical Education.
(b) Educational achievement increases will be honored for those employees who have an approved educational achievement award agreement on file in the Division of Personnel Services as of July 1, 1990. This provision will expire when previous commitments have been met.

Section 4. Salary Advancements. (1) Annual salary increments for unclassified employees shall occur commensurate with each person's established increment date.
(2) Paid overtime. Unclassified employees shall be awarded overtime payments in accordance with the Fair Labor Standards Act, 29 US §201 et seq.

GEORGE R. SIEMENS, JR., Chairman
APPROVED BY AGENCY: July 17, 1990
FILED WITH LRC: August 9, 1990 at 9 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 21, 1990 at 10 a.m. EDT in the Ground Floor Auditorium, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by September 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 this date, the hearing may be cancelled. Those persons wishing to attend and testify shall contact in writing: Secretary, State Board of Adult and Technical Education, 2013 Capital Plaza Tower, Frankfort, KY 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Audrey T. Carr
(1) Type and number of entities affected: Approximately 40 unclassified employees in the Department for Adult & Technical Education.
(a) Direct and indirect costs or savings to those affected: No change.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: No change.
(2) Effects on the promulgating administrative body: No significant change.
(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: Eliminates some paperwork from the Department of Personnel, but retains such requirements in the Department for Adult and Technical Education.
(3) Assessment of anticipated effect on state and local revenues: No effect.
(4) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable.
(5) Identify any statute, rule, or regulation or governmental 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 regulation with conflicting provisions:
(6) Any additional information or comments: This regulation is necessary to be established under Section 5 of HB 814 (1990 RS) which moves authority for personnel regulations for unclassified staff in the Department for Adult and Technical Education under the authority of the State Board for Adult and Technical Education.
TIERING: Was tiering applied? Yes.

WORKFORCE DEVELOPMENT CABINET
Department for Adult and Technical Education

780 KAR 6:030. Appointments.

RELATES TO: HB 814 §5 (1990 RS)
STATUTORY AUTHORITY: HB 814 §5 (1990 RS)
NECESSITY AND FUNCTION: Section 5 of HB 814 (1990 RS) requires the State Board for Adult and Technical Education to promulgate comprehensive administrative regulations consistent with the provisions of Section 5 of HB 814 (1990 RS). Section 5 of HB 814 (1990 RS) specifieS that the State Board for Adult and Technical Education promulgate administrative regulations for the unclassified service.

Section 1. Establishment and Abolishment of Positions. The appointing authority shall establish and abolish positions consistent with the classification and compensation plan of the unclassified service.

Section 2. Filing Applications. All applications shall be made on forms prescribed by the commissioner. All applications shall be signed and the truth of the statements contained herein certified by such signatures under penalty of removal for falsification and such criminal penalties as may apply. The commissioner may authorize individuals to verify work experience and educational attainment of applicants for positions in the unclassified service. The application shall be consistent with the state and federal equal employment opportunity guidelines.

Section 3. Minimum Qualifications for Filing. All positions shall be filled by applicants who meet the standards or requirements prescribed by the commissioner with regard to education and experience and such other factors as may be held to relate to the ability of the candidate to perform with reasonable efficiency the duties of the position.

Section 4. Selection of Employees. The commissioner shall make the selection of employees. Employees in the executive policy-making positions serve at the discretion of the appointing authority contingent upon the approval of the secretary of the cabinet and the Governor. The selection and appointment of appropriate personnel shall be contingent upon approval of the secretary of the cabinet and the Governor.

GEORGE R. SIEMENS, JR., Chairman
APPROVED BY AGENCY: July 17, 1990
FILED WITH LRC: August 9, 1990 at 9 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 21, 1990 at 10 a.m. EDT in the Ground Floor Auditorium, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by September 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 this date, the hearing may be cancelled. Those persons wishing to attend and testify shall contact in writing: Secretary, State Board of Adult and Technical Education, 2013 Capital Plaza Tower, Frankfort, KY 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Audrey T. Carr
(1) Type and number of entities affected: Approximately 40 unclassified employees in the Department for Adult & Technical Education.
(a) Direct and indirect costs or savings to those affected: No change.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: No change.
(2) Effects on the promulgating administrative body: No significant change.
(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: Eliminates some paperwork from the Department of Personnel, but retains such requirements in the Department for Adult and Technical Education.
(3) Assessment of anticipated effect on state

and local revenues: No effect.
(4) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable.
(5) Identify any statute, rule, or regulation or governmental 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 regulation with conflicting provisions:
(6) Any additional information or comments: This regulation is necessary to be established under Section 5 of HB 814 (1990 RS) which moves authority for personnel regulations for unclassified staff in the Department for Adult and Technical Education under the authority of the State Board for Adult and Technical Education.
TIERING: Was tiering applied? Yes.

WORKFORCE DEVELOPMENT CABINET
Department for Adult and Technical Education

780 KAR 6:040. Special appointments.

RELATES TO: HB 814 §5 (1990 RS)
STATUTORY AUTHORITY: HB 814 §5 (1990 RS)
NECESSITY AND FUNCTION: Section 5 of HB 814 (1990 RS) requires the State Board for Adult and Technical Education to promulgate administrative regulations consistent with Section 5 of HB 814 (1990 RS), which govern the various types of appointments, and other such regulations not inconsistent with Section 5 of HB 814 (1990 RS) as may be proper and necessary.

Section 1. Detail to Special Duty. When the services of a limited or continuing status employee are needed in the unclassified service, the employee may be detailed to that position for a period not to exceed one (1) year with prior approval of the commissioner contingent upon approval of the secretary of the cabinet and the Governor. For detail to special duty, the commissioner may waive the minimum requirements. The employee shall retain status in the certified and equivalent service.

Section 2. Dual Appointments. The commissioner may authorize appointments of employees serving in two (2) positions. The commissioner may designate one (1) of the appointments as serving in an acting capacity contingent upon approval of the secretary of the cabinet and the Governor.

GEORGE R. SIEMENS, JR., Chairman
APPROVED BY AGENCY: July 17, 1990
FILED WITH LRC: August 9, 1990 at 9 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 21, 1990 at 10 a.m. EDT in the Ground Floor Auditorium, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by September 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 this date, the hearing may be cancelled. Those persons wishing to attend and testify shall contact in writing: Secretary, State Board of Adult and Technical Education, 2013 Capital Plaza Tower, Frankfort, KY 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Audrey T. Carr
(1) Type and number of entities affected: Approximately 40 unclassified employees in the Department for Adult & Technical Education.
(a) Direct and indirect costs or savings to those affected: No change.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: No change.
(2) Effects on the promulgating administrative body: No significant change.
(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: Eliminates some paperwork from the Department of Personnel, but retains such requirements in the Department for Adult and Technical Education.
(3) Assessment of anticipated effect on state and local revenues: No effect.
(4) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable.
(5) Identify any statute, rule, or regulation or governmental 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 regulation with conflicting provisions:
(6) Any additional information or comments: This regulation is necessary to be established under Section 5 of HB 814 (1990 RS) which moves authority for personnel regulations for unclassified staff in the Department for Adult and Technical Education under the authority of the State Board for Adult and Technical Education.
TIERING: Was tiering applied? Yes.

WORKFORCE DEVELOPMENT CABINET
Department for Adult and Technical Education

780 KAR 6:050. Probationary periods.

RELATES TO: HB 814 §5 (1990 RS)
STATUTORY AUTHORITY: HB 814 §5 (1990 RS)
NECESSITY AND FUNCTION: Section 5 of HB 814 (1990 RS) requires the State Board for Adult and Technical Education to promulgate comprehensive administrative regulations consistent with the provisions of Section 5 of HB 814 (1990 RS) which govern personnel rules for the unclassified service in the Department for Adult and Technical Education. Section 5 of HB 814 (1990 RS) specifies that the state board promulgate comprehensive administrative regulations for the unclassified staff governing probationary periods.

Section 1. All unclassified staff shall serve an initial probationary period of six (6) months. The initial probationary period shall serve as an adjustment period for the newly appointed employee and as an evaluation period for management. Completion of the initial six (6) months of employment does not indicate

permanent status. Employees may be granted a five (5) percent increase in pay at the completion of the initial six (6) months. An employee who satisfactorily completes the initial probationary period in a given classification shall be eligible for continued employment. An employee who does not satisfactorily complete the initial probationary period shall not be eligible for reemployment in that job classification in the Department for Adult and Technical Education.

GEORGE R. SIEMENS, JR., Chairman
APPROVED BY AGENCY: July 17, 1990
FILED WITH LRC: August 9, 1990 at 9 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 21, 1990 at 10 a.m. EDT in the Ground Floor Auditorium, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by September 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 this date, the hearing may be cancelled. Those persons wishing to attend and testify shall contact in writing: Secretary, State Board of Adult and Technical Education, 2013 Capital Plaza Tower, Frankfort, KY 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Audrey T. Carr
(1) Type and number of entities affected: Approximately 40 unclassified employees in the Department for Adult & Technical Education.
(a) Direct and indirect costs or savings to those affected: No change.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: No change.
(2) Effects on the promulgating administrative body: No significant change.
(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: Eliminates some paperwork from the Department of Personnel, but retains such requirements in the Department for Adult and Technical Education.
(3) Assessment of anticipated effect on state and local revenues: No effect.
(4) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable.
(5) Identify any statute, rule, or regulation or governmental 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 regulation with conflicting provisions:
(6) Any additional information or comments: This regulation is necessary to be established under Section 5 of HB 814 (1990 RS) which moves authority for personnel regulations for unclassified staff in the Department for Adult and Technical Education under the authority of the State Board for Adult and Technical Education.
TIERING: Was tiering applied? Yes.

WORKFORCE DEVELOPMENT CABINET
Department for Adult and Technical Education

780 KAR 6:060. Attendance.

RELATES TO: HB 814 §5 (1990 RS)
STATUTORY AUTHORITY: HB 814 §5 (1990 RS)
NECESSITY AND FUNCTION: Section 5 of HB 814 (1990 RS) requires the State Board for Adult and Technical Education to promulgate comprehensive administrative regulations consistent with the provisions of Section 5 of HB 814 (1990 RS). Section 5 of HB 814 (1990 RS) specified that the state board promulgate administrative regulations for the unclassified service staff governing attendance, including hours of work, compensatory time, and annual, court, military, sick, voting, and special leave of absence.

Section 1. Attendance. (1) Full-time employees shall be required to work thirty-seven and one-half (37 1/2) hours per week for all positions unless otherwise specified by the appointing authority.
(2) The appointing authority may require employees to work hours and work days other than normal if it is in the best interest of the agency. The employee shall be required to give reasonable notice in advance of absence from a work station. Employees shall be given as much advance notice as possible when schedules are changed.

Section 2. Compensatory Time. (1) An employee who is requested in advance to work in excess of the prescribed hours of duty shall be granted compensatory leave on an hour-for-hour basis subject to the provisions of the Fair Labor Standards Act and the Kentucky Labor Laws. Compensatory leave may be accumulated or taken off in one-half (1/2) hour increments. The maximum amount of compensatory leave that may be accumulated shall be 100 hours. The commissioner may authorize additional compensatory time as necessary, but in no case shall an employee exceeed 200 hours.
(2) Upon separation from state service, employees will be paid for all unused compensatory leave at the greater of their regular hourly rate of pay or at the average rate of pay for the final three (3) years of employment.
(3) All unclassified employees shall be permitted to use accumulated compensatory time when practicable and requested in advance and if approved by the respective supervisor.
(4) To maintain a manageable level of accumulated compensatory leave and for the specific purpose of reducing an employee's compensatory leave, the commissioner or designee may direct an employee to take accumulated compensatory time off from work.

Section 3. Annual Leave. (1) Each full-time employee in the unclassified service except seasonal, temporary, per diem, emergency and part-time employees shall accumulate annual leave with pay at the following rate:

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

(2) Annual leave shall be accumulated only in the months in which the employee is hired to work.

(3) A full-time employee must have worked more than half of the work days in a month to qualify for annual leave. Each employee shall be credited with additional leave upon the first day of the month following the month in which the leave is earned. In computing months of total service for the purpose of earning annual leave, only those months for which an employee earned annual leave shall be counted. Former employees who have been rehired and who have been previously dismissed for cause from state service shall receive credit for service prior to the dismissal, except where such dismissal resulted from a violation of KRS Chapter 151B, Section 16. Only those months for which the employee earned annual leave shall be counted in computing months of total service. Employees serving on a part-time basis shall not be entitled to annual leave.

(4) The maximum accumulated annual leave which may carry forward from one (1) fiscal year to the next shall not exceed the following amounts:

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

However, leave in excess of the above maximum amounts shall be converted to sick leave at the end of the fiscal year or upon retirement. Months of service for the purpose of determining the maximum amount of annual leave which may be accumulated and the amount to be converted to sick leave shall be computed as provided in subsections (1), (2), and (3) of this section. Annual leave shall not be granted in excess of that earned prior to starting date of leave.

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

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

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

(8) Employees shall be allowed sufficient leave days as determined by the commissioner for the purpose of continuing staff development; i.e., participation in professional organization workshops and meetings without loss of pay.

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

(10) An employee who is transferred to the Department for Adult and Technical Education shall retain his accumulated leave.

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

(12) Employees eligible for state contributions for life insurance and health benefits under the provisions of KRS Chapter 151B shall have worked or been on paid leave during the previous month subject to the following conditions:

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

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

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

(d) Any employee who leaves the Department for Adult and Technical Education unclassified system on or prior to the fifteenth day of the month before working or being on paid leave for over half of the workdays in the month shall remain eligible for state contributions for life insurance and health benefits in the following month.

(13) An employee who has been dismissed for cause or who has failed to give proper notice of resignation may, at the discretion of the appointing authority, be paid in a lump sum for accumulated annual leave not to exceed the maximum amounts set forth in subsection (5) of this section.

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

(15) Absence for a fraction or part of a day that is charged to annual leave shall be charged in hours or increments of one-half (1/2) hour.

Section 4. Sick Leave. (1) Each employee in the unclassified system, except per diem, and part-time employees shall accumulate sick leave with pay at the rate of one (1) working day for each month of service. An employee must have worked more than half of the workdays in a month to qualify for sick leave with pay. Each employee shall be credited with additional sick leave upon the first day of the month following

the month in which the sick leave is earned.

(2) Full-time employees completing 120 months of total service with the state shall be credited with ten (10) additional days of sick leave upon the first day of the month following the completion of 120 months of service. In computing months of total service for the purpose of crediting ten (10) additional days of sick leave, only those months for which an employee earned sick leave shall be used. Only those months for which the employee earned sick leave shall be counted in computing total months of service. The total service must be verified before the leave is credited to the employee's record. Former employees who have been rehired and who had been previously dismissed for cause from state service shall receive credit for service prior to the dismissal, except where such dismissal resulted from the violation of KRS Chapter 151B, Section 16.

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

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

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

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

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

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

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

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

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

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

(8) Employees eligible for state contributions for life insurance and health benefits under the provision of KRS Chapter 151B shall have worked or been on paid leave during the previous month subject to the following conditions:

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

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

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

(d) Any employee who leaves the unclassified service on or prior to the 15th day of the month before working or being on paid leave for over half of the workdays in the month shall remain eligible for state contributions for life insurance and health benefits in the following month.

(9) Absence for a fraction or a part of a day that is chargeable to sick leave shall be charged in hours or increments of one-half (1/2) hour.

(10) An employee who is transferred to the Department for Adult and Technical Education shall retain his accumulated sick leave.

(11) Employees shall be credited for accumulated sick leave when separated by proper resignation, layoff, retirement, or when granted leave without pay in excess of thirty (30) working days. Former employees who are reemployed shall have unused sick leave balances revived upon reentrance and placed to their credit.

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

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

(14) Supporting evidence.

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

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

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

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

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

a. The name of the donor.

b. The agency or office in which the donor is employed.

c. The position number of the donor.

d. The Social Security Number of the donor.

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

f. The agency or office in which the donee is employed.

g. The donee position number.

h. The donee Social Security Number.

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

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

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

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

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

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

a. Employee name.

b. Position number.

c. Social Security Number.

d. Employee title.

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

f. Signature of the requestor or his personal representative.

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

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

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

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

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

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

Section 5. Court Leave. An employee shall be entitled to leave of absence from duties during his scheduled working hours, without loss of time or pay for that amount of time necessary to comply with subpoenas by any court, or administrative agency or body of the federal or state government or any political subdivision thereof, to serve as a juror or a witness except in cases where the employee himself or a member of his family is a part plaintiff. This leave shall include necessary travel time. If relieved from duty as a juror or witness during his normal working hours, the employee shall return to work.

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

annual and compensatory leave may be paid in a lump sum, at the request of the employee, upon receiving this leave.

Section 7. Voting Leave. All employees who are eligible and registered to vote shall be allowed, upon prior request, four (4) hours, for the purpose of voting. Such absence shall not be charged against leave. Employees who are not scheduled to work during voting hours shall not receive voting leave and shall not be entitled to compensatory leave in lieu of time off to vote. Employees who are permitted to work in lieu of voting leave shall be granted compensatory leave on an hour-for-hour basis.

Section 8. Special Leave of Absence. (1) In addition to leave as above provided, the appointing authority may grant leave without pay for a period or periods not to exceed thirty (30) working days in any calendar year.

(2) The Commissioner of Adult and Technical Education may grant leave of absence when requested by an employee for a period not to exceed twenty-four (24) months, with or without pay, for assignment to and attendance at college, university, vocational or business school for the purpose of training in subjects related to the work of the employee and which will benefit the state service. All employees granted such leave shall be guaranteed a position as similar as possible to the position held at the time of beginning of leave. Employees shall not be guaranteed the identical position held at time of beginning of leave.

(3) The appointing authority may grant an employee a leave of absence without pay for a period not to exceed one (1) year for purposes other than specified in this regulation that are deemed to be in the best interest of the state. All employees granted such leave shall be guaranteed a position as similar as possible to this position held at the time of the beginning of leave. Employees shall not be guaranteed the identical position held at the time of leave.

(4) The appointing authority may place an employee on leave without pay for a period of time not to exceed sixty (60) working days pending an investigation into allegations of employee misconduct. Unless there is imminent danger to staff, students or other individuals, there shall be a preliminary hearing after which the employee shall be notified in writing that he is being placed on leave without pay and of the reasons therefor. If such investigation reveals no misconduct on behalf of the employee, he shall be made whole for the period of such leave and all records relating to the investigation will be purged from the Department for Adult and Technical Education files. The appointing authority shall notify the employee in writing of the completion of the investigation and the action taken including those cases where the employee voluntarily resigns in the interim.

(5) Employees eligible for state contributions for life insurance and health benefits under the provisions of KRS Chapter 151B shall have worked or been on paid leave during the previous month subject to the following conditions:

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

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

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

(d) Any employee who leaves the Department for Adult and Technical Education unclassified system on or prior to the 15th day of the month before working or being on paid leave for over half of the workdays in the month shall remain eligible for state contributions for life insurance and health benefits in the following month.

Section 9. Absence Without Leave. An employee who is absent from duty without approval shall report the reason therefor to his supervisor immediately. Unauthorized or unreported absence shall be considered absence without leave and deduction of pay may be made for each period of such absence. Such absence may constitute grounds for disciplinary action.

GEORGE R. SIEMENS, JR., Chairman
APPROVED BY AGENCY: July 17, 1990
FILED WITH LRC: August 9, 1990 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 21, 1990 at 10 a.m. EDT in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by September 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 this date, the hearing may be cancelled. Those persons wishing to attend and testify shall contact in writing: Secretary, State Board of Adult and Technical Education, 2013 Capital Plaza Tower, Frankfort, KY 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Audrey T. Carr

(1) Type and number of entities affected: Approximately 40 unclassified employees in the Department for Adult & Technical Education.

(a) Direct and indirect costs or savings to those affected: No change.

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

(b) Reporting and paperwork requirements: No change.

(2) Effects on the promulgating administrative body: No significant change.

(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: Eliminates some paperwork from the Department of

Personnel, but retains such requirements in the Department for Adult and Technical Education.
(3) Assessment of anticipated effect on state and local revenues: No effect.
(4) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable.
(5) Identify any statute, rule, or regulation or governmental 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 regulation with conflicting provisions:
(6) Any additional information or comments: This regulation is necessary to be established under Section 5 of HB 814 (1990 RS) which moves authority for personnel regulations for unclassified staff in the Department for Adult and Technical Education under the authority of the State Board for Adult and Technical Education.
TIERING: Was tiering applied? Yes.

WORKFORCE DEVELOPMENT CABINET
Department for Adult and Technical Education

780 KAR 6:070. Records and reports.

RELATES TO: HB 814 §5 (1990 RS)
STATUTORY AUTHORITY: HB 814 §5 (1990 RS)
NECESSITY AND FUNCTION: Section 5 of HB 814 (1990 RS) requires the State Board for Adult and Technical Education to promulgate comprehensive administrative regulations with the provisions of Section 5 of HB 814 (1990 RS). Section 5 of HB 814 (1990 RS) specifies that the state board promulgate administrative regulations for the unclassified service in the Department for Adult and Technical Education.

Section 1. Records. (1) The Commissioner of Adult and Technical Education shall prescribe personnel action forms which shall be used to report personnel actions and status changes. The appointing authority shall provide a copy of a personnel action form to the employee affected by such action.
(2) The appointing authority shall maintain a leave record consistent with these regulations for each employee reflecting:
(a) Annual leave earned, used and unused;
(b) Sick leave earned, used and unused;
(c) Compensatory leave earned, used and unused; and
(d) Special leave or any other leave with or without pay. Such record shall contain documentary evidence to support and justify authorized leave of absence with pay.
(3) Leave balances reported to the Commissioner of Adult and Technical Education shall contain the official leave balances of the employee.
(4) The Commissioner of Adult and Technical Education shall prepare and maintain a record of all employees showing for each employee his name, address, title of position, salary rate, changes in status, transfer, sick leave, annual leave, and compensatory leave.

Section 2. Reports. (1) The Commissioner of Adult and Technical Education shall be responsible for providing raw data for the generation of all federal and state reports including the reporting of equal employment opportunity and affirmative action.

GEORGE R. SIEMENS, JR., Chairman
APPROVED BY AGENCY: July 17, 1990
FILED WITH LRC: August 9, 1990 at 9 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 21, 1990 at 10 a.m. EDT in the Ground Floor Auditorium, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by September 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 this date, the hearing may be cancelled. Those persons wishing to attend and testify shall contact in writing: Secretary, State Board of Adult and Technical Education, 2013 Capital Plaza Tower, Frankfort, KY 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Audrey T. Carr
(1) Type and number of entities affected: Approximately 40 unclassified employees in the Department for Adult & Technical Education.
(a) Direct and indirect costs or savings to those affected: No change.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: No change.
(2) Effects on the promulgating administrative body: No significant change.
(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: Eliminates some paperwork from the Department of Personnel, but retains such requirements in the Department for Adult and Technical Education.
(3) Assessment of anticipated effect on state and local revenues: No effect.
(4) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable.
(5) Identify any statute, rule, or regulation or governmental 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 regulation with conflicting provisions:
(6) Any additional information or comments: This regulation is necessary to be established under Section 5 of HB 814 (1990 RS) which moves authority for personnel regulations for unclassified staff in the Department for Adult and Technical Education under the authority of the State Board for Adult and Technical Education.
TIERING: Was tiering applied? Yes.

WORKFORCE DEVELOPMENT CABINET
Department for Adult and Technical Education

780 KAR 6:080. Employee actions.

RELATES TO: HB 814 §5 (1990 RS)
STATUTORY AUTHORITY: HB 814 §5 (1990 RS)
NECESSITY AND FUNCTION: Section 5 of HB 814 (1990 RS) requires the State Board for Adult and Technical Education to promulgate comprehensive administrative regulations consistent with the provisions of Section 5 of HB 814 (1990 RS). Section 5 of HB 814 (1990 RS) specifies that the state board promulgate administrative regulations for the unclassified service staff governing promotion, demotion, transfer, and reemployment.

Section 1. Definition: Work Station. (1) The official work station of an employee 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 position.

(3) Each employee shall be assigned to a work station by the appointing authority. A work station may be changed to better meet the needs of the agency. An employee may be temporarily assigned to a different work station in a different county for a period of up to sixty (60) calendar days, provided that such employee is reimbursed for his travel expenses in accordance with regulatory provisions and the appointing authority notifies the employee in writing prior to the effective date of the action. Nothing within this regulation shall be construed as prohibiting the appointing authority from assigning an employee to work in a different site within the county of employment.

Section 2. Promotion. (1) Vacancies may be filled by promotion whenever practicable and in the best interest of the service.

(2) Any continuing status employee promoted from the certified and equivalent personnel system retains his status in the certified and equivalent system. If at the time of reversion no vacancy exists in the position of the former class, then status Section 14 of HB 814 (1990 RS) pertaining to layoff shall apply. He shall be considered for employment in any vacant position for which he is qualified pursuant to Section 8 of HB 814 (1990 RS).

Section 3. Demotion. (1) An employee may request a voluntary demotion in writing from the appointing authority. A copy of the request shall be placed in the employee's official file.

(2) The commissioner may make involuntary demotions when deemed necessary to further the best interest of the department.

Section 4. Transfer. An employee appointed in accordance with KRS 12.050 cannot be transferred. Any other employee in the unclassified service may be transferred from one position to another in the unclassified service by the appointing authority with written notice. If the transfer is on an involuntary basis, the employee shall receive notice of his 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 employee's selection for transfer, and the employee's obligation to report to the new work station.

Section 5. Resignations. An employee who desires to terminate his service with the state shall submit a written resignation to the appointing authority. Resignations shall be submitted at least fourteen (14) calendar days before the final working day. A copy of an employee's resignation shall be attached to the advice effecting the separation and be filed in the employee's service record in the department. Failure of an employee to give fourteen (14) calendar days notice with his resignation may result in forfeiture of accrued annual leave.

Section 6. Temporary Overlap. The appointing authority for training purposes may place an employee in a position currently occupied by another employee for a period not to exceed sixty (60) calendar days.

Section 7. If an employee voluntarily retires, he is considered as separated without prejudice.

GEORGE R. SIEMENS, JR., Chairman
APPROVED BY AGENCY: July 17, 1990
FILED WITH LRC: August 9, 1990 at 9 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 21, 1990 at 10 a.m. EDT in the Ground Floor Auditorium, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by September 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 this date, the hearing may be cancelled. Those persons wishing to attend and testify shall contact in writing: Secretary, State Board of Adult and Technical Education, 2013 Capital Plaza Tower, Frankfort, KY 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Audrey T. Carr
(1) Type and number of entities affected: Approximately 40 unclassified employees in the Department for Adult & Technical Education.
(a) Direct and indirect costs or savings to those affected: No change.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: No change.
(2) Effects on the promulgating administrative body: No significant change.
(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: Eliminates some paperwork from the Department of Personnel, but retains such requirements in the Department for Adult and Technical Education.
(3) Assessment of anticipated effect on state and local revenues: No effect.
(4) Assessment of alternative methods; reasons

why alternatives were rejected: Not applicable.
(5) Identify any statute, rule, or regulation or governmental 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 regulation with conflicting provisions:
(6) Any additional information or comments: This regulation is necessary to be established under Section 5 of HB 814 (1990 RS) which moves authority for personnel regulations for unclassified staff in the Department for Adult and Technical Education under the authority of the State Board for Adult and Technical Education.
TIERING: Was tiering applied? Yes.

WORKFORCE DEVELOPMENT CABINET
Department for Adult and Technical Education

780 KAR 6:090. Disciplinary actions.

RELATES TO: HB 814 §5 (1990 RS)
STATUTORY AUTHORITY: HB 814 §5 (1990 RS)
NECESSITY AND FUNCTION: Section 5 of HB 814 (1990 RS) requires the State Board for Adult and Technical Education to promulgate administrative regulations consistent with the provisions of Section 5 of HB 814 (1990 RS). Section 5 of HB 814 (1990 RS) specifies that the state board promulgate administrative regulations for the unclassified service governing dismissals, suspensions, and any other disciplinary measures.

Section 1. General Provision. Except as provided by Section 6(6) of HB 814 (1990 RS), employees in the unclassified service shall not have appeal rights to the State Board for Adult and Technical Education.

Section 2. Dismissals, Demotions and Suspensions. The commissioner may make dismissals, demotions and suspensions as required to insure effective and efficient management in the Department for Adult and Technical Education.

GEORGE R. SIEMENS, JR., Chairman
APPROVED BY AGENCY: July 17, 1990
FILED WITH LRC: August 9, 1990 at 9 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 21, 1990 at 10 a.m. EDT in the Ground Floor Auditorium, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by September 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 this date, the hearing may be cancelled. Those persons wishing to attend and testify shall contact in writing: Secretary, State Board of Adult and Technical Education, 2013 Capital Plaza Tower, Frankfort, KY 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Audrey T. Carr
(1) Type and number of entities affected: Approximately 40 unclassified employees in the Department for Adult & Technical Education.
(a) Direct and indirect costs or savings to those affected: No change.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: No change.
(2) Effects on the promulgating administrative body: No significant change.
(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: Eliminates some paperwork from the Department of Personnel, but retains such requirements in the Department for Adult and Technical Education.
(3) Assessment of anticipated effect on state and local revenues: No effect.
(4) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable.
(5) Identify any statute, rule, or regulation or governmental 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 regulation with conflicting provisions:
(6) Any additional information or comments: This regulation is necessary to be established under Section 5 of HB 814 (1990 RS) which moves authority for personnel regulations for unclassified staff in the Department for Adult and Technical Education under the authority of the State Board for Adult and Technical Education.
TIERING: Was tiering applied? Yes.

WORKFORCE DEVELOPMENT CABINET
Department for Adult and Technical Education

780 KAR 6:100. Appeals and hearings.

RELATES TO: HB 814 §5 (1990 RS)
STATUTORY AUTHORITY: HB 814 §5 (1990 RS)
NECESSITY AND FUNCTION: Section 5 of HB 814 (1990 RS) requires the State Board for Adult and Technical Education to promulgate comprehensive administrative regulations consistent with the provisions of Section 5 of HB 814 (1990 RS). Section 5 of HB 814 (1990 RS) specifies that the state board promulgate administrative regulations for the unclassified service governing appeals.

Section 1. General Provisions. (1) As provided in Section 6(6) of HB 814 (1990 RS), employees in the unclassified service may appeal to the State Board for Adult and Technical Education.
(2) Appeals shall be filed within thirty (30) calendar days as specified in KRS Chapter 151B, Section 9(8)(c). When the 30th day of the filing period falls on a day when the office of the secretary of the board is closed during normal working hours, the appeal may be filed on the next regular working day.
(3) Appeals shall be heard in Frankfort, Kentucky or in a location mutually acceptable to the hearing officer and the employee. The hearing officer shall make the final determination of the location of the hearing.

(4) If the appeal form indicates that the appealing employee has retained counsel at the time of filing an appeal, notice of the scheduled hearing and all future notices, correspondence and orders regarding the appeal shall be transmitted to that attorney and all filings and motions on behalf of the appealing employee shall be submitted by that attorney.

(5) Unless otherwise directed by the board, the secretary of the board shall assign a hearing officer or officers to each appeal. If more than one (1) hearing officer is assigned, one (1) shall be designated as chief. If the appeal is to be heard by the full board, the chairman shall serve as the chief hearing officer.

Section 2. Continuances. (1) Any party may request a continuance of a scheduled hearing for good cause. The request shall be in writing, state the reason for the request and include proposed dates for rescheduling. The request shall be filed with the board through the office of the secretary of the board and mailed to all parties at least ten (10) days prior to the scheduled hearing.

(2) Any party objecting to a requested continuance may file a written objection stating the reason. Any objection shall be filed with the board through the office of the secretary of the board within five (5) days prior to the scheduled hearing. Copies shall be mailed to all parties.

(3) A continuance may be granted in extraordinary circumstances by the hearing officer.

(4) A request for a continuance based on a bona fide personal emergency shall be granted only upon appropriate justification and may be granted without strict compliance with the requirements of this section.

(5) All requests for continuance shall be ruled on by the hearing officer. At the direction of the hearing officer, the secretary of the board shall execute and transmit to all parties an interim order either granting or denying the continuance. If the continuance is granted, the interim order shall indicate the date on which the hearing has been rescheduled or the the hearing has been continued generally.

Section 3. Prehearing Procedures. (1) All motions, requests or filings shall be in writing, filed with the board through the office of the secretary and served on all other parties.

(2) Any interim order by the hearing officer shall be executed and transmitted by the secretary of the board to all parties. Interim orders are not reviewable by the board except on final review, unless otherwise provided in the interim order.

(3) If an appealing employee retains counsel subsequent to filing his appeal, the attorney shall file a written entry of appearance. All future notices, correspondence, and orders regarding the appeal shall be transmitted to that attorney and all future filings and motions on behalf of the appealing employee shall be submitted by that attorney.

(4) An appealing employee shall notify all parties and the board in writing of any change of address.

(5) Subpoena forms shall be available in the office of the secretary of the board and shall be issued by the secretary of the board. Preparation and service of the subpoena and compliance with the subpoena are the responsibility of the party requesting the subpoena.

(6) Depositions may be taken only in extraordinary circumstances and upon authorization by the hearing officer. A request to take a deposition shall be filed at least seven (7) days prior to the scheduled hearing. Any objections shall be filed prior to the scheduled hearing.

(7) Upon agreement of all parties and approval by the hearing officer, two (2) or more appeals which involve the same or similar facts may be consolidated. Upon motion of any party, or upon his own motion, the hearing officer may join other parties as necessary to appropriately consider the matter on appeal.

(8) The hearing officer may schedule a prehearing conference to define the issues, determine which facts, if any, can be stipulated, rule on pending motions or requests, and address any other matters which will facilitate the hearing.

(9) Any agreed settlements shall be submitted in writing for the full board's review and final action.

(10) The secretary of the board, general counsel, and board staff may participate in ex parte communication concerning pending and impending proceedings before the board relating to:

(a) Procedural questions.

(b) Scheduling of hearings.

Section 4. Conduct of Hearing. (1) Unless the appeal is heard by the full board, the hearing officer assigned shall hear the appeal. The hearing officer shall be empowered to make all decisions and rule on all matters concerning the conduct of the hearing. He shall require an orderly and proper decorum at the hearing and shall be authorized to require compliance with his rulings.

(2) Failure of any party to appear at the hearing may result in an adverse ruling against that party.

(3) The rules of civil procedure do not apply.

(4) The hearing officer shall direct one of the parties to present its case first, examine witnesses and submit documentation, subject to cross examination. The opposing party shall then present its case, examine witnesses and submit documentation, subject to cross examination.

(5) All parties shall provide three (3) copies of any exhibit which is to be introduced as evidence. Copies shall be prepared prior to the hearing unless otherwise authorized by the hearing officer.

(6) The proceedings and evidence presented shall be recorded by a court reporter.

Section 5. Findings and Recommendations; Exceptions. (1) Following completion of the hearing, the hearing officer shall prepare a recommended order, including findings of fact and recommendations, based on the evidence, facts and information presented at the hearing and contained in the record.

(2) At the direction of the hearing officer, the recommended order shall be entered and transmitted by the secretary of the board to all parties.

(3) Any party may submit written exceptions to the findings of fact and recommendations.

Exceptions shall be filed with the board through the office of the secretary of the board within twenty (20) calendar days of entry of the recommended order, unless otherwise directed by the hearing officer at the time the recommended order is entered and served on all parties.

(4) Any party may submit a written response to exceptions filed with the board. The response shall be filed with the board through the office of the secretary of the board within ten (10) calendar days of entry of the recommended order, unless otherwise directed by the hearing officer at the time the recommended order is entered, and served on all parties.

(5) Exceptions and responses not timely filed shall be noted and made a part of the record, but shall not be considered by the board in making a final determination.

Section 6. Board Review and Action. (1) The board may adopt as submitted the findings and recommendations of the hearing officer, amend the findings or recommendations based on evidence or information contained in the record prior to adoption, or order the appeal remanded to the hearing officer for further action as appropriate.

(2) Following consideration by the full board, a final order shall be entered disposing of the appeal. The order shall be prepared, executed, and entered at the direction of the secretary of the board. Copies of the order shall be transmitted to all parties by the secretary of the board.

GEORGE R. SIEMENS, JR., Chairman

APPROVED BY AGENCY: July 17, 1990

FILED WITH LRC: August 9, 1990 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 21, 1990 at 10 a.m. EDT in the Ground Floor Auditorium, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by September 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 this date, the hearing may be cancelled. Those persons wishing to attend and testify shall contact in writing: Secretary, State Board of Adult and Technical Education, 2013 Capital Plaza Tower, Frankfort, KY 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Audrey T. Carr

(1) Type and number of entities affected: Approximately 40 unclassified employees in the Department for Adult & Technical Education.

(a) Direct and indirect costs or savings to those affected: No change.

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements: No change.

(2) Effects on the promulgating administrative body: No significant change.

(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: Eliminates some paperwork from the Department of Personnel, but retains such requirements in the Department for Adult and Technical Education.

(3) Assessment of anticipated effect on state and local revenues: No effect.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable.

(5) Identify any statute, rule, or regulation or governmental 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 regulation with conflicting provisions:

(6) Any additional information or comments: This regulation is necessary to be established under Section 5 of HB 814 (1990 RS) which moves authority for personnel regulations for unclassified staff in the Department for Adult and Technical Education under the authority of the State Board for Adult and Technical Education.

TIERING: Was tiering applied? Yes.

PUBLIC PROTECTION & REGULATION CABINET
Public Service Commission

807 KAR 5:058. Integrated resource planning by electric utilities.

RELATES TO: KRS Chapter 278

STATUTORY AUTHORITY: KRS 278.040(3)

NECESSITY AND FUNCTION: KRS 278.040(3) provides that the commission may adopt reasonable regulations to implement the provisions of KRS Chapter 278. This regulation prescribes rules for regular reporting and commission review of load forecasts and resource plans of the state's electric utilities to meet future demands for electricity, assure an adequate and reliable supply of electricity at the lowest possible cost for all electric utility customers within their service areas, and satisfy all related state and federal environmental and other laws and regulations.

Section 1. General Provisions. (1) This regulation shall apply to electric utilities under commission jurisdiction except a distribution company with less than $10,000,000 annual revenue or a distribution cooperative organized under KRS Chapter 279.

(2) Each utility shall file biennially with the commission an integrated resource plan. The plan shall include both historical and projected demand, resource and financial data, and other operating performance and system information, as well as a discussion of facts, assumptions, conclusions, and actions in the plan. Specific filing requirements are stated below.

Section 2. General Procedures for Filing and Distributing the Plan. (1) Each utility shall file its initial integrated resource plan with the commission during the year 1990 according to a schedule established by the commission. Subsequent to the initial filing, the utility shall file its integrated resource plan every two (2) years thereafter. Ten (10) copies of the plan shall be filed with the commission.

(2) Immediately upon filing of the initial integrated resource plan, each utility shall

provide notice to intervenors in its most recently completed general rate case proceeding, that its plan has been filed and is available from the utility upon request.

(3) Immediately upon filing of any subsequent integrated resource plan, each utility shall provide notice to intervenors in the last integrated resource plan review proceeding, that its plan has been filed and is available from the utility upon request.

(4) Upon receipt of a utility's integrated resource plan, the commission shall establish a review schedule which may include interrogatories, comments, informal conferences and staff reports.

Section 3. Exemptions or Waivers. A utility may file a motion requesting an exemption from or waiver of requirements of specific provisions of this regulation. Such request shall be made no later than ninety (90) days prior to filing the integrated resource plan. The commission shall rule on the request within thirty (30) days. The motion shall clearly identify the provision from which the utility is seeking exemption or waiver and provide justification for the requested relief. The justification shall include an estimate of costs and benefits of compliance with the specific provision. Notice of motion requesting an exemption shall be given in the manner provided in Section 2(2) and (3) of this regulation.

Section 4. Format. (1) The integrated resource plan shall be clearly and concisely organized so that it is evident to the commission that the utility has complied with reporting requirements described in subsequent sections.

(2) Each plan filed shall identify individuals responsible for preparation of the plan. These individuals shall be available to respond to inquiries during the commission's review of the plan.

(3) Utilities may make joint filings for all or part of the requirements of this regulation. However, the information shall be stated separately for each utility as well as aggregated for joint filing, since the commission will review forecasts and plans for each electric utility individually.

(4) The commission may develop forms and formats for submission of information required under this regulation. Such forms and formats shall be forwarded to utilities in sufficient time prior to filing. The commission will periodically review the adequacy and appropriateness of forms and modify them as deemed appropriate. When forms or formats are specified, the utility shall use them in preparing its plan.

Section 5. Plan Summary. The plan shall contain a summary which discusses the utility's outlook for load growth and the resources planned to meet that growth. The summary shall include at a minimum:

(1) Description of the utility, its customers, service territory, current facilities, and planning objectives;

(2) Description of models, methods, data and key assumptions used in developing the results contained in the plan;

(3) Summary of forecasts of energy and peak demand, and key economic and demographic assumptions or projections underlying these forecasts;

(4) Summary of the utility's planned resource acquisitions including, but not limited to: improvements in operating efficiency of existing facilities, demand-side programs, nonutility sources of generation, new power plants, transmission improvements, bulk power purchases and sales, and interchanges with other utilities;

(5) Steps being taken during the next two (2) years to implement the plan;

(6) Discussion of key issues or uncertainties that could affect successful implementation of the plan.

Section 6. Significant Changes. Any integrated resource plan, subsequent to the initial plan, shall have a summary of significant changes from the last plan. This summary shall describe, in narrative and tabular form, changes in load forecasts, resource plan, assumptions or methodologies from the previous plan. Where appropriate, the utility may also use graphical displays to illustrate changes.

Section 7. Load Forecasts. The plan shall include historical and forecasted information regarding loads.

(1) The information shall be provided for the system total and, where available, disaggregated by the following customer classes:

(a) Residential heating;

(b) Residential nonheating;

(c) Total residential (total of paragraphs (a) and (b) of this subsection);

(d) Commercial;

(e) Industrial;

(f) Sales for resale;

(g) Utility use and other.

The utility shall also provide data at any greater level of disaggregation available.

(2) The utility shall provide historical information for the base year, which is the most recent calendar year for which actual energy sales and system peak demand data are available, and the four (4) years preceding the base year.

(3) The following historical information shall be provided:

(a) Average annual number of customers by class as defined in subsection (1) of this section;

(b) Recorded and weather-normalized annual energy sales and generation for the system, and sales disaggregated by class as defined in subsection (1) of this section;

(c) Recorded and weather-normalized coincident peak demand in summer and winter for the system;

(d) Total energy sales and coincident peak demand to retail and wholesale customers for which the utility has firm, contractual commitments;

(e) Total energy sales and coincident peak demand to retail and wholesale customers for which service is provided under an interruptible or curtailable contract or tariff or under some other nonfirm basis;

(f) Annual energy losses and estimated losses at time of summer and winter system peak demands for the system;

(g) Identification and description of existing demand-side programs and an estimate of the impact of existing demand-side programs on utility sales and coincident peak demands including, but not limited to, utility and/or government sponsored conservation and load management programs;

(h) Any other data or exhibits, such as load duration curves or average energy usage per customer, which illustrate historical changes in load or load characteristics.

(4) The utility shall provide load forecast information for each of the fifteen (15) years succeeding the base year. For purposes of this section, a base load forecast shall be required. The base forecast is the forecast considered most likely to occur. To the extent available, the utility also shall file information for alternate forecasts representing lower and upper boundaries for the range of expected future growth of the load on the utility's system. Forecasts shall not include load impacts of additional, future demand-side programs and customer generation included as part of planned resource acquisitions reported in Section 8 of this regulation. Contributions of these programs and facilities to satisfy future customer demands for electricity shall be estimated separately and reported in Section 8(4) of this regulation. Forecasts shall include the utility's estimates of existing and continuing demand-side programs as described in subsection (5) of this section.

(5) The following information shall be filed for each forecast:

(a) Annual energy sales and generation for the system and sales disaggregated by class as defined in subsection (1) of this section;

(b) Summer and winter coincident peak demand for the system;

(c) If available for the first two (2) years of the forecast, monthly forecasts of energy sales and generation for the system and disaggregated by class as defined in subsection (1) of this section and system peak demand;

(d) The impact of existing and continuing demand-side programs on both energy sales and system peak demands, including but not limited to, utility and government sponsored conservation and load management programs;

(e) Any other data or exhibits which illustrate projected changes in load or load characteristics.

(6) For a utility which is part of a multistate integrated utility system, the additional following historical data shall be provided:

(a) Recorded and weather normalized annual energy sales and generation for the integrated system; and

(b) Recorded and weather normalized coincident peak demand in summer and winter for the integrated system.

(7) For a utility which is part of a multistate integrated utility system, the additional following forecast information shall be provided:

(a) Annual energy sales and generation for the integrated system; and

(b) Summer and winter coincident peak demand for the integrated system.

(8) For a utility which purchases fifty (50) percent or more of its energy needs from another company, the additional following historical data shall be provided:

(a) Recorded and weather normalized annual energy sales and generation of the company supplying energy needs; and

(b) Recorded and weather normalized coincident peak demand in summer and winter of the company supplying energy needs.

(9) For a utility which purchases fifty (50) percent or more of its energy needs from another company, the additional following forecast information shall be provided:

(a) Annual energy sales and generation of the utility supplying energy needs; and

(b) Summer and winter coincident peak demand of the utility supplying energy needs.

(10) A utility shall file all updates of load forecasts with the commission when they are adopted by the utility.

(11) The plan shall include description and discussion of methods, models, data, assumptions and judgments used in preparing load forecasts. Documentation should be explicit, detailed, and complete. Detailed technical discussions, descriptions, and supporting documentation shall be contained in a technical appendix. The description and discussion shall include, but not be limited to:

(a) All data sets used in producing the forecasts;

(b) Key assumptions and judgments used in producing forecasts and determining reasonableness of forecasts;

(c) General methodological approach taken to load forecasting (e.g., econometric or structural), and the model design, model specification, and estimation of key model parameters (e.g., price elasticities of demand or average energy usage per type of appliance);

(d) Utility's treatment and assessment of load forecast uncertainty;

(e) Extent to which the utility's load forecasting methods and models explicitly address and incorporate the following factors:

1. Changes in prices of electricity and prices of competing fuels;

2. Changes in population and economic conditions in the utility's service territory and general region;

3. Development and potential market penetration of new appliances and other equipment and technologies that use electricity or competing fuels; and

4. Continuation of existing company and government sponsored conservation and load management or other demand-side programs.

(f) Research and development efforts underway or planned to improve performance, efficiency or capabilities of the utility's load forecasting methods; and

(g) Description of and schedule for efforts underway or planned to develop end-use load and market data for analyzing demand-side resource options including, but not limited to, load research and market research studies, customer appliance saturation studies, and conservation and load management program pilot or demonstration projects.

Section 8. Resource Assessment and Acquisition Plan. (1) The plan shall include the utility's resource assessment and acquisition plan. This plan shall provide for an adequate and reliable supply of electricity to meet forecasted electricity requirements at the lowest possible cost. The plan shall consider the potential impacts of selected, key uncertainties and shall include assessment of potentially cost-effective resource options available to the utility.

(2) The utility shall describe and discuss all options considered for inclusion in the resource assessment and acquisition plan including, but not limited to:

(a) Improvements to and more efficient

utilization of existing utility generation, transmission and distribution facilities;

(b) Conservation and load management or other demand-side programs beyond those already in place;

(c) Expansion of generating facilities, including assessment of economic opportunities for coordination with other utilities in constructing and operating new units; and

(d) Assessment of nonutility generation, including generating capacity provided by cogeneration, technologies relying on renewable resources, and other nonutility sources.

(3) The following information regarding the utility's existing and planned resources shall be provided. A utility which operates as part of a multistate integrated system shall submit the following information for its operations within Kentucky and for the multistate utility system of which it is a part. A utility which purchases fifty (50) percent or more of its energy needs from another company shall submit the following information for its operations within Kentucky and for the company from which it purchases its energy needs.

(a) Map of existing and planned generating facilities and transmission facilities with a voltage rating of sixty-nine (69) kilovolts or greater, indicating their type and capacity. This map shall also indicate locations and capacities of all interconnections with other utilities. In addition, the utility shall provide discussion of any known, significant limiting conditions which restrict transfer capabilities with other utilities.

(b) List of all existing and planned electric generating facilities which the utility plans to have in service in the base year or during any of the fifteen (15) years of the forecast period. The utility shall provide a schedule including the following information for each existing and planned facility:

1. Plant name;
2. Unit number(s);
3. Existing or proposed location;
4. Status (existing, planned, under construction, etc.);
5. Actual or projected commercial operation date;
6. Type of facility;
7. Net dependable capability, summer and winter;
8. Entitlement if jointly owned or unit purchase;
9. Primary and secondary fuel types, by unit and as applicable;
10. Fuel storage capacity; and
11. Scheduled upgrades, deratings and retirement dates.

(c) For each generating unit planned to be available during the base year or during any of the fifteen (15) years of the forecast period, the utility shall provide the following actual and projected cost and operating information for the base year (for existing units) or first full year of operations (for new units) and the basis for projecting the information to each of the fifteen (15) forecast years (e.g., cost escalation rates). All cost data shall be expressed in nominal and real base year dollars.

1. Capacity and availability factors;
2. Anticipated annual average heat rate;
3. Costs of fuel(s) per millions of British thermal units (MMBtu);
4. Estimate of capital costs for planned units (total and per kilowatt of rated capacity);
5. Variable and fixed operating and maintenance costs;
6. Capital and operating and maintenance cost escalation factors;
7. Projected average variable and total electricity production costs (in cents per kilowatt-hour).

(d) Description of transactions for purchases, sales or exchanges of electricity which currently exist or which the utility expects to enter into with other utilities during the base year or during any of the fifteen (15) forecast years of the plan.

(e) Description of existing and projected amounts of electric energy and generating capacity from cogeneration, self-generation, technologies relying on renewable resources, and other nonutility sources available for purchase by the utility during the base year or during any of the fifteen (15) forecast years of the plan.

(f) Information on existing and new conservation and load management or other demand-side programs included in the plan. For each program the utility shall identify:

1. Targeted classes and/or end-uses;
2. Expected life of the program;
3. Projected energy changes by season, and summer and winter peak demand changes;
4. Projected cost of each program, including any incentive payments and program administrative costs; and
5. Projected cost savings of each program including savings in utility's generation, transmission and distribution costs.

(4) The utility shall describe and discuss its resource assessment and acquisition plan. The plan shall consist of resource options which produce adequate and reliable means to meet annual and seasonal peak demands and total energy requirements required by the base load forecast at the lowest possible cost.

(a) The utility shall provide the following information on total resource capacity available at the winter and summer peak, for the base year and for each year covered by the base forecast:

1. Forecast peak load;
2. Capacity from existing resources before consideration of retirements;
3. Capacity from planned utility-owned generating plant capacity additions;
4. Capacity available from firm purchases from other utilities;
5. Capacity available from firm purchases from nonutility sources of generation;
6. Reductions or increases in peak demand from new conservation and load management or other demand-side programs proposed in the plan;
7. Committed capacity sales to wholesale customers coincident with peak;
8. Planned retirements;
9. Reserve requirements;
10. Capacity excess or deficit;
11. Capacity or reserve margin.

(b) The utility shall provide the following information on planned annual generation for the base year and for each year covered by the forecast:

1. Total forecast firm energy requirements;
2. Energy from existing and planned utility generating resources disaggregated by primary fuel type;
3. Energy from firm purchases from other utilities;

4. Energy from firm purchases from nonutility sources of generation; and

5. Reductions or increases in energy from new conservation and load management or other demand-side programs proposed in the plan;

(c) For each of the fifteen (15) years covered by the plan, the utility shall provide estimates of total energy input in primary fuels by fuel type and total generation by primary fuel type required to meet load. Primary fuels shall be organized by standard categories (coal, gas, etc.) and quantified on the basis of physical units (e.g., barrels or tons) as well as in MMBtu.

(5) The resource assessment and acquisition plan shall include a description and discussion of methods, models, data, assumptions and judgments used in preparing the resource assessment and acquisition plan. Detailed technical discussion, descriptions and supporting documentation shall be contained in a technical appendix. Description and discussion shall include, but not be limited to:

(a) General methodological approach, models, data sets and information used by the company;

(b) Key assumption and judgments used in the assessment and how uncertainty in those assumptions and judgments were incorporated into analyses;

(c) Criteria (e.g., present value of revenue requirements, capital requirements, environmental impacts, flexibility, diversity) used to screen each resource alternative, and criteria used to select the final mix of resources presented in the acquisition plan;

(d) Criteria used in determining the appropriate level of reliability and the required reserve or capacity margin, and discussion of how these determinations have influenced selection of options; and

(e) Existing and projected research efforts and programs which are directed at developing data for future assessments and refinements of analyses.

Section 9. Financial Information. The integrated resource plan shall, at a minimum, include and discuss the following financial information:

(1) Present (base year) value of revenue requirements stated in dollar terms;

(2) Discount rate used in present value calculations;

(3) Nominal and real value requirements by year; and

(4) Average system rates (revenues per kilowatt hour) by year.

Section 10. Report from the Statewide Perspective. (1) Upon receipt of all integrated resource plans for each filing year, the commission shall order preparation, either by commission staff or by a consultant, of a report which views the filings from the statewide perspective.

(2) The report shall compile and aggregate key information from the utility specific filings.

(3) The report shall be completed and distributed to all parties of record in each integrated resource planning proceeding within ninety (90) days of the date when all of the integrated resource plans have been filed.

Section 11. Notice. Each utility which files an integrated resource plan shall publish, in a form prescribed by the commission, notice of its filing in the newspaper of largest circulation in each county in which the utility currently provides service or anticipates to provide service during the period covered by the report. The notice shall be published not more than thirty (30) days after the filing date of the report.

Section 12. Procedures for Review of the Integrated Resource Plan. (1) Upon receipt of a utility's integrated resource plan, the commission shall develop a procedural schedule which allows for submission of written interrogatories to the utility by staff and interested parties, written comments by staff and interested parties and responses to interrogatories and comments by the utility.

(2) The commission may convene a conference following interrogatories and comments to discuss the filed plan and all other matters relative to review of the plan.

(3) Based upon its review of a utility's plan and all related information, the commission staff shall issue a report summarizing its review and offering suggestions and recommendations to the utility for subsequent filings.

(4) A utility shall respond to the staff's comments and recommendations in its next integrated resource plan filing.

GEORGE EDWARD OVERBEY, JR., Chairman
ROBERT M. DAVIS, Vice Chairman

APPROVED BY AGENCY: August 15, 1990

FILED WITH LRC: August 15, 1990 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 25, 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 September 20, 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 wishes to be heard 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 six of the electric utilities under the jurisdiction of the Public Service Commission (PSC).

(a) Direct and indirect costs or savings to those affected: This regulation prescribes rules for the biennial filing of integrated resource plans by the state's six largest electric utilities. These plans will consist of load forecasts, resource assessment and financial

information, as well as a discussion of assumptions and methodologies used in developing the plans. The costs associated with filing this information will vary from company to company depending on each utility's present planning activities and capabilities. However, since much of the information that is requested in this regulation is commonly used in the regular forecasting and planning functions of an electric utility, it is reasonable to assume that these six utilities are presently developing and analyzing most of the information on a regular basis. Although some data base modification or enhancement may be required by some of the utilities in order to comply with this regulation, no testimony or evidence was provided during the public hearing process that described or estimated costs related to such modifications. Additional costs associated with this regulation will be related to compiling and reproducing the requested information. Furthermore, the PSC retained a consultant over two years ago to assist it with the development and implementation of this regulation. It is expected that the consultant will be retained to assist the PSC staff in its review and analysis of the initial filings of the integrated resource plans. Costs associated with this consultant will continue to be charged to the affected utilities on a prorated basis. It is important to note that, in order to avoid or mitigate any extraordinary costs associated with this regulation, Section 3 of the regulation allows for the exemption or waiver of any provision or requirement upon the request of an affected utility. The utility must justify its request by estimating the costs and benefits of compliance with the specific provision. Inherent in this regulation is the possibility of significant savings for the affected utilities and all electric ratepayers in the Commonwealth. These savings, in fact, could outweigh any costs related to the regulation. The purpose of the regulation is to ensure an adequate and reliable supply of electricity at the lowest possible cost for all electric utility customers. If successful in achieving this goal, the regulation will have been instrumental in creating an environment of cooperation and coordination among the state's large electric utilities in which all demand-side and supply-side options for satisfying the Commonwealth's electric energy needs will be considered. When the lowest cost option, that also meets specific reliability requirements, is chosen, all ratepayers will benefit.

1. First year: During the first year of the regulation, each of the affected electric utilities will file their first integrated resource plans. It is anticipated that the highest compliance costs will be incurred during this first year as the utilities modify or adjust existing forecasting or planning systems and data bases and possibly acquire additional capabilities. The utilities will also incur the costs of compiling and reproducing the required information. Again, however, it is important to note that, under Section 3 of the regulation, any utility may request an exemption or waiver of any provision of the regulation which, in the opinion of the utility, results in more costs than benefits.

2. Continuing costs or savings: Costs associated with subsequent biennial filings will primarily be related to compiling and reproducing required information. Future savings expected to result from this regulation have been described in part (1)(a) above.

3. Additional factors increasing or decreasing costs (note any effects upon competition): Other than the cost factors described in parts (1)(a) 1 and 2 above, no additional factors affecting costs are anticipated. Furthermore, any such factor that, in the opinion of an affected utility, has an effect on its competitive position will be handled through the PSC's current regulation 807 KAR 5:001, Section 7, which allows any person to file a petition for confidentiality to prevent the public disclosure of information filed with the PSC.

(b) Reporting and paperwork requirements: This regulation requires a biennial filing of an integrated resource plan by each of the six affected electric utilities. The plans will include a demand forecast, resource assessment and acquisition study, and specific financial information related to the present value of revenue requirements and average annual system rates (revenues per kilowatt hour). In addition, the regulation requires a discussion of assumptions and methodologies used to prepare the integrated resource plans.

(2) Effects on the promulgating administrative body: The biennial filings of integrated resource plans will be reviewed and analyzed by a team of PSC staff members in a manner similar to that used for all other utility filings made presently with the PSC. Although additional employee time will be required to process these biennial filings, it is not anticipated that additional staff will be necessary.

(a) Direct and indirect costs or savings: Since these filings will be handled within the normal business activities of the PSC, there are no direct or indirect costs related to this regulation with the exception of costs related to additional paperwork requirements described below. Likewise, no savings are expected to result from this regulation.

1. First year: There is no fiscal impact with the exception of costs related to additional paperwork requirements described below.

2. Continuing costs or savings: There is no fiscal impact with the exception of costs related to additional paperwork requirements described below.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: This regulation requires that, following the receipt of all integrated resource plans for each filing year, the PSC staff prepares a report which views the filings from a statewide perspective. The report will compile and aggregate key information from the individual utility plans. Furthermore, following a review and analysis of each utility plan, staff will issue a report summarizing its review and offering suggestions and recommendations to the utility for subsequent filings.

(3) Assessment of anticipated effect on state and local revenues: This regulation prescribes an informal information reporting procedure by which six electric utilities will file biennial integrated resource plans with the PSC. Thereby, this regulation will not have an effect on state or local revenue.

(4) Assessment of alternative methods; reasons why alternatives were rejected: In developing this regulation, the PSC considered several

alternative methods of implementing an integrated resource planning process. One method would have required formal PSC hearings on each utility's integrated resource plan, during which extensive evaluation criteria would have been examined. Another method would have phased in, over several years, progressively more stringent requirements, culminating in the actual approval or rejection of each utility's plan and the enforcement of PSC findings in other rate and certificate proceedings. Alternatively, the PSC considered a method that would have eliminated all formal hearings and review procedures and significantly reduced the reporting requirements of the affected utilities. The PSC rejected more rigorous methods in favor of the informal process contained in this regulation so that parties may exchange information and ideas in a less adversarial manner. The method that would have significantly reduced the reporting requirements was rejected since it was felt that the simplified process, in which very little meaningful information would have been exchanged, would not have satisfied the PSC's goal of establishing a process to review and analyze all options available for meeting the Commonwealth's electricity needs. It was decided that the process described in this regulation would satisfy the PSC's goal.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: This regulation is not in conflict with, nor does it overlap or duplicate, any current 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: No additional comments.

TIERING: Was tiering applied? Yes. This regulation applies to only 6 of the 29 electric utilities under the jurisdiction of the PSC. These 6 electric utilities are involved in the generation and transmission of electricity in the Commonwealth and are presently engaged in some form of resource planning. This regulation describes methodologies and procedures which these 6 utilities will use in their resource planning activities. Furthermore, the integrated resource planning process prescribed by this regulation only affects a specific group of electric utilities, and not the numerous gas, telephone, water, and sewer utilities that also come under the jurisdiction of the PSC. The reporting requirements and review process contained in this regulation have been reduced and simplified significantly from an original draft regulation which required formal hearings and instituted extensive evaluation criteria. It is felt that the process defined by this regulation meets the PSC's goals without unduly burdening any of the affected electric utilities.

CABINET FOR HUMAN RESOURCES
Department for Medicaid Services

907 KAR 1:017. Hospital indigent care assurance program (HICAP).

RELATES TO: KRS 205.520
STATUTORY AUTHORITY: KRS 194.050, 205.575
NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance under Title XIX of the Social Security Act, and the Hospital Indigent Care Assurance Program (HICAP) under KRS 205.575. This regulation sets forth provisions relating to implementation of HICAP.

Section 1. Definitions. (1) For purposes of this regulation the following words or phrases shall have the same definition as shown in KRS 205.575:

(a) Hospital indigent care assurance program (HICAP);

(b) Department;

(c) Fund;

(d) Hospital; and

(e) Medical assistance program.

(2) "Nonparticipant" means a hospital not complying with the conditions of participation for HICAP.

Section 2. Conditions of Participation. Any hospital participating in the HICAP program shall comply with the following requirements:

(1) Pay to the department the hospital's assessment;

(2) Comply with the requirement contained in KRS 205.575 for the posting of a sign showing the hospital will accept patients under given circumstances; and

(3) Comply with the requirement contained in KRS 205.575 for acceptance of benefits of state health insurance coverage.

Section 3. Departmental Actions Based on Noncompliance with Participation Requirements. (1) A hospital shall be considered a nonparticipant when it fails to meet one (1) or more of the participation requirements shown in Section 2 of this regulation. A hospital shall be notified in writing when the department determines the facility to be a nonparticipant. The department shall provide the hospital an opportunity to discuss with the department its determination prior to issuance of the written notification so the hospital may present any evidence it may wish the department to consider which relates to the hospital's compliance with conditions of participation.

(2) A hospital which is a nonparticipant shall not be paid HICAP benefits until all participation requirements are met.

Section 4. Assessments. The HICAP assessment payment amounts for the period beginning July 13, 1990 through December 31, 1990, shall be one (1) percent of each hospital's total inpatient and outpatient hospital costs for services to patients utilizing hospital cost reports available as of June 15, 1990. The assessment percentage for annual periods beginning January 1, 1991, shall be one (1) percent utilizing hospital cost reports used in setting the year's Medicaid hospital rates. From each year's assessments actually paid the cabinet, the

department shall reserve up to $1,000,000 as a contingency reserve.

Section 5. HICAP Benefit Payments. (1) The HICAP benefit payment amounts for the period of July 13, 1990, through December 31, 1990, shall be computed in accordance with KRS 205.575 using hospital cost reports available as of June 15, 1990. For rate years beginning on or after January 1, 1991, the HICAP benefit payment amounts shall be computed in accordance with KRS 205.575 and the cost reports utilized shall be the cost reports used in setting hospital rates for the year.

(2) Disbursements shall be proportionate based on the ratio of the facility's Medicaid days compared to total Medicaid days (except for hold harmless amounts), taking into consideration funds available for disbursement. Disbursement adjustments based on appeal or audit may be paid from the contingency reserve or from the available fund amount (including amounts in the fund in a subsequent quarter if necessary).

(3) If a hospital appeals a departmental decision with regard to its assessment payment amount or its HICAP benefit amount to Franklin Circuit Court, it may nevertheless pay to the department the assessment payment amount computed by the department with the understanding that the payment shall not compromise its right of action in court and that its final assessment payment amount or HICAP benefit payment amount shall be contingent on expiration of the time of judicial appeals or on court determination.

Section 6. Allocation of Payments. Hospitals Shall be paid first any HICAP benefit amounts based on Medicaid days, then hold harmless amounts as necessary sufficient to bring the hospitals' total payment under the program up to the amount of assessment amount paid. The contingency reserve shall be used as necessary to ensure equitable continuing payments to hospitals meeting HICAP participant status and may be used as necessary for distribution to hospitals as hold harmless amounts.

Section 7. Assessment Schedules. (1) Assessment payments for the July 13, 1990, through September 30, 1990, period shall be due on or before September 30, 1990. Assessment payments for the October 1, 1990 - December 31, 1990 period shall be due on or before November 30, 1990. The assessment payment due date for each subsequent calendar quarter shall be on the last day of the second month of each quarter.

(2) A hospital may request a delay in its assessment payment due date based on unforeseeable circumstances affecting the hospital's ability to pay in a timely manner. Unforeseeable circumstances may include, but are not limited to, substantial disruptions of management or operations from occurrences such as fire, flood, storm, bankruptcy or other demonstrated financial hardship. Simple inability to pay, unless combined with a filing of bankruptcy or other demonstrated financial hardship by the hospital, shall not constitute justification for a delayed payment schedule. If a delay is granted, the delay shall not exceed sixty (60) days. An appeal to the Franklin Circuit Court (or a higher court as appropriate) with regard to the assessment payment amount or the HICAP benefit amount shall be justification for a delay in payment of the assessment until the court case is resolved.

Section 8. Waiver of Late Payment Penalties. The commissioner of the department shall waive the late payment penalty specified in KRS 205.575 ($20,000 per incident of late payment) only when good cause exists. Good cause shall be determined to exist only when an unforeseeable circumstance occurs affecting timely payment. Unforeseeable circumstances may include substantial disruptions of management or operations from occurrences such as fire, flood, storm or similar events. Good cause may also exist when the responsible official of the hospital reasonably anticipated that payment was or should have been made (e.g., payment was mailed timely but lost in the mail). Failure to pay due to insufficient funds shall not be good cause for a waiver of the penalty unless combined with a bankruptcy filing of the hospital. An appeal to the Franklin Circuit Court (or a higher court as appropriate) with regard to the assessment payment amount or the HICAP benefit payment amount shall be considered to meet the criteria for good cause.

Section 9. General. The department shall perform other functions related to implementation of HICAP in accordance with the specific provisions shown in KRS 205.575.

Section 10. Effective Date. The provisions ot his regulation shall be effective with regard to HICAP assessments and payments made on and after July 13, 1990.

ROY BUTLER, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: July 25, 1990
FILED WITH LRC: August 1, 1990 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 21, 1990, at 9 a.m., in the Department for Employment Services Conference Room, Second Floor West, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending his hearing, shall notify this agency in writing by September 16, 1990, five days prior to 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. The hearing is open to the public. Any person who attends will be given the opportunity to comment on the 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 administrative regulation. Send written notification of intent to attend the public comment hearing or written comments on the administrative regulation to: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street - 4 West, Frankfort, Kentucky 40621, Phone: 502-564-7900.

REGULATORY IMPACT ANALYSIS

Contact Person: Roy Butler
(1) Type and number of entities affected: All acute care hospitals in the state.
(a) Direct and indirect costs or savings to those affected: None
1. First year:

2. Continuing costs or savings:
3.Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: None as a result of this administrative regulation.
1. First year: $67,000,000 (costs)*
2. Continuing costs or savings: $67,000,000 (costs)
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: No viable alternatives were identified.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: *State funds for the HICAP program come from the hospital assessments.
TIERING: Is tiering applied? No. Federal Medicaid regulations require that similarly situated providers be treated in a similar manner.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. There is no federal statute or regulation constituting a federal mandate for the Medicaid Program.
2. State compliance standards. This regulation establishes the payment schedule for Hospital Indigent Care Assurance Program (HICAP) assessment amounts.
3. Minimum or uniform standards contained in the federal mandate. There are no minimum or uniform standards contained in a federal mandate.
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? Not applicable. This regulation does not set stricter requirements.
5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The standards and responsibilities specified in the regulation are established pursuant to KRS 205.575 which provides for the Hospital Indigent Care Assurance Program.

REPRINT

COMPILER'S NOTE: Section 6(2)(c) of 806 KAR 17:066 was incorrectly worded as printed on page 813 of the August Administrative Register. It is being reprinted here to show the correct language.

PUBLIC PROTECTION & REGULATION CABINET
Department of Insurance

806 KAR 17:066. Medicare supplement insurance policies.

RELATES TO: KRS 304.12-020, 304.14-500 to 304.14-550, 304.17-305, 304.17-318, 304.18-036, 304.18-095, 304.32-157, 304.32-165, 304.32-270, 304.38-193, 304.38-196, 304.38-200

STATUTORY AUTHORITY: KRS 304.2-110, 304.14.510, 304.32-250, 304.38-150

NECESSITY AND FUNCTION: KRS 304.2-110 provides that the Commissioner of Insurance may make reasonable regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.14-510 provides that the Commissioner of Insurance may make reasonable regulations establishing minimum standards for Medicare supplement insurance policies. KRS 304.32-250 provides that the Commissioner of Insurance may make reasonable regulations which he deems necessary for the proper administration of KRS 304.32. KRS 304.38-150 provides that the Commissioner of Insurance may make reasonable regulations which he deems necessary for the proper administration of KRS Chapter 304.38. This regulation establishes minimum standards for Medicare supplement insurance policies.

Section 1. Definitions. For the purposes of this regulation:

(1) "Applicant" means:

(a) In the case of an individual Medicare supplement policy, the person who seeks to contract for insurance benefits; and

(b) In the case of a group Medicare supplement policy, the proposed certificate holder.

(2) "Certificate" means any certificate issued under a group Medicare supplement policy, which certificate has been delivered or issued for delivery in this state.

(3) "Commissioner" means the Commissioner of the Kentucky Department of Insurance.

(4) "Insurance policy" means an insurance policy, a subscriber contract issued by a nonprofit hospital, medical-surgical, dental, and health service corporation, and an enrollee contract issued by a health maintenance organization.

(5) "Medicare supplement policy" means a group or individual policy of insurance, a subscriber contract issued by a nonprofit hospital, medical-surgical, dental, and health service corporation, or an enrollee contract issued by a health maintenance organization which is advertised, marketed, or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical, or surgical expenses of persons eligible for Medicare by reason of age.

Section 2. Purpose, Applicability, and Scope. (1) The purpose of this regulation is to provide for the reasonable standardization of coverages and simplification of terms and benefits of Medicare supplement policies, to facilitate public understanding and comparison of such policies, to eliminate provisions contained in such policies which may be misleading or confusing in connection with the purchase of such policies or in connection with the settlement of claims, and to provide for full disclosure in the sale of health insurance coverages to persons eligible for Medicare by reason of age.

(2) Except as otherwise specifically provided in Sections 8 and 9 of this regulation, this regulation shall apply to:

(a) All Medicare supplement policies delivered or issued for delivery in this state on or after the effective date of this regulation; and

(b) All certificates issued under group Medicare supplement policies, which certificates have been delivered or issued for delivery in this state.

Section 3. Policy Definitions and Terms. No insurance policy subject to this regulation shall contain terms or definitions which do not conform to those in this section.

(1) "Accident," "accidental injury," or "accidental means" shall be defined to employ "result" language and shall not include words which establish an accidental means test or use words such as "external, violent, visible wounds" or similar words of description or characterization.

(a) The definition shall not be more restrictive than the following: "injury or injuries for which benefits are provided means accidental bodily injury sustained by the injured person which is a direct result of an accident, independent of disease or bodily infirmity or any other cause, and occurs while insurance coverage is in force."

(b) Such definition may provide that injury shall not include injuries for which benefits are provided or available under any workers' compensation, employer's liability, or similar law, or motor vehicle no-fault insurance plan, unless such a definition is prohibited by law.

(2) "Benefit period," or "Medicare benefit period," shall not be defined as more restrictive than as that defined in the Medicare program.

(3) "Convalescent nursing home," "extended care facility," or "skilled nursing facility" shall be defined in relation to its status, facilities, and available resources.

(a) A definition of such home or facility shall not be more restrictive than one requiring that it:

1. Be operated pursuant to law;

2. Be approved for payment of Medicare benefits or be qualified to receive such approval, if so requested;

3. Be primarily engaged in providing, in addition to room and board accommodations, skilled nursing care under the supervision of a duly licensed physician;

4. Provide continuous twenty-four (24) hours a day nursing service by or under the supervision of a registered graduate professional nurse (R.N.); and

5. Maintain a daily medical record of each patient.

(b) The definition of such home or facility may provide that such term not be inclusive of:

1. Any home, facility, or part thereof used primarily for rest;

2. A home or facility for the aged or for the care of drug addicts or alcoholics; or

3. A home or facility used primarily for the care and treatment of mental diseases or disorders, or custodial or educational care.

(4) "Health care expenses" means expenses of health maintenance organizations associated with the delivery of health care services which are analogous to incurred losses of insurers. Such expenses shall not include:

(a) Home office and overhead costs;

(b) Advertising costs;

(c) Commissions and other costs of acquiring insurance business;

(d) Taxes;

(e) Capital costs;

(f) Administrative costs; or

(g) Claims processing costs.

(5) "Hospital" may be defined in relation to its status, facilities, and available services or to reflect its accreditation by the Joint Commission on Accreditation of Hospitals.

(a) The definition of the term "hospital" shall not be more restrictive than one requiring that the hospital:

1. Be an institution operated pursuant to law;

2. Be primarily and continuously engaged in providing or operating, either on its premises or in facilities available to the hospital on a prearranged basis and under the supervision of a staff of duly licensed physicians, medical, diagnostic, and major surgical facilities for the medical care and treatment of sick or injured persons on an inpatient basis for which charges made; and

3. Provide twenty-four (24) hour nursing service by or under the supervision of registered graduate professional nurses (R.N.s).

(b) The definition of the term "hospital" may state that such term shall not include:

1. Convalescent homes, convalescent, rest, or nursing facilities;

2. Facilities primarily affording custodial, educational, or rehabilitory care;

3. Facilities for the aged, drug addicts, or alcoholics; or

4. Any military or veterans hospital or soldiers home or any hospital contracted for or operated by any national government or agency thereof for the treatment of members or ex-members of the armed forces, except for services rendered on an emergency basis where a legal liability exists for charges made to the individual for such services.

(6) "Medicare" shall be defined in the policy. Medicare may be substantially defined as "the Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965 as then constituted or later amended," or Title I, Part I of P.L. 89-97, as enacted by the 89th Congress of the United States of America and properly known as the Health Insurance for the Aged Act, as then constituted and any later amendments or substitutes thereof, or words of similar import.

(7) "Medicare eligible expenses" shall mean health care expenses of the kinds covered by Medicare, to the extent recognized as reasonable by Medicare. Payment of benefits by insurers for Medicare eligible expenses may be conditioned upon the same or less restrictive payment conditions, including determinations of medical necessity as are applicable to Medicare claims.

(8) "Mental or nervous disorders" shall not be defined more restrictively than a definition including neurosis, psychoneurosis, psychopathy, psychosis, or mental or emotional disease or disorder of any kind.

(9) "Nurses" may be defined so that the description of nurse is restricted to a type of nurse, such as a registered graduate professional nurse (R.N.), a licensed practical nurse (L.P.N.), or a licensed vocational nurse (L.V.N.). If the words "nurse," "trained nurse," or "registered nurse," are used without specific instruction, then the use of such terms requires the insurer to recognize the services of any individual who qualified under such terminology in accordance with the statutes and regulations administered by the Kentucky Board of Nursing.

(10) "Physician" may be defined by including the words such as "duly qualified physician" or "duly licensed physician." The use of such terms requires an insurer to recognize and to accept, to the extent of its obligations under the contract, all providers of medial care and treatment when such services are within the scope of the provider's licensed authority and are provided pursuant to applicable laws.

(11) "Sickness" shall not be defined to be more restrictive than the following: "sickness means sickness or disease of an insured person which first manifests itself after the effective date of insurance and while the insurance is in force." The definition may be further modified to exclude sicknesses or diseases for which benefits are provided under any workers' compensation, occupational disease, or employer's liability, or similar law.

Section 4. Prohibited Policy Provisions. (1) A Medicare supplement policy shall not contain a probationary or elimination period.

(2) No insurance policy may be advertised, solicited, or issued for delivery in this state as a Medicare supplement policy if such policy limits or excludes coverage by type of illness, or accident, treatment, or medical condition, except as follows:

(a) Foot care in connection with corns, calluses, flat feet, fallen arches, weak feet, chronic foot strain, or symptomatic complaints of the feet;

(b) Mental or emotional disorders, alcoholism and drug addiction, unless coverage for such conditions is purchased as an option;

(c) Illness, treatment, or medical condition arising out of:

1. War or act of war (whether declared or undeclared); participation in a felony, riot, or insurrection; service in the armed forces or units auxiliary thereto;

2. Suicide (sane or insane), attempted suicide, or intentionally self-inflicted injury; or

3. Aviation.

(d) Cosmetic surgery, except that cosmetic surgery shall not include reconstructive surgery when such service is incidental to or follows surgery resulting from trauma, infection, or other diseases of the involved body part;

(e) Care in connection with the detection and correction of manual or mechanical means of structural imbalance, distortion, or subluxation in the human body for purposes of removing nerve interference and the effect thereof, or such i

nterference is the result of or related to distortion, misalignment, or subluxation of or in the vertebral column, except that such coverage must be provided to the extent required by law;

(f) Treatment provided in a governmental hospital; benefits provided under Medicare or other governmental program (except Medicaid), any state or federal workers' compensation, employer's liability for occupational disease, or any motor vehicle no-fault insurance law (except where prohibited by law); services rendered by employees of hospitals, laboratories, or other institutions; services performed by a member of the covered person's immediate family and services for which no charge is normally made in the absence of insurance;

(g) Dental care or treatment;

(h) Eye glasses, hearing aids, and examination for the prescription or fitting thereof;

(i) Rest cures, custodial care, transportation, and routine physical examinations; or

(j) Territorial limitations outside the United States.

However, Medicare supplement policies shall not contain, when issued, limitations or exclusions of the type enumerated in paragraphs (a), (e), (i), or (j) of this subsection that are more restrictive than those of Medicare. Medicare supplement policies may exclude coverage for any expense to the extent of any benefit available to the insured under Medicare.

(3) No Medicare supplement policy may use waivers to exclude, limit, or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions.

(4) The terms "Medicare supplement," "medigap," and words of similar import shall not be used unless the policy is issued in compliance with KRS 304.14-500 to 304.14-550 and this regulation.

(5) No Medicare supplement insurance policy in force in this state shall contain benefits which duplicate benefits provided by Medicare.

Section 5. Benefit Conversion Requirements. (1) Effective January 1, 1990, no Medicare supplement insurance policy, contract, or certificate in force in Kentucky shall contain benefits which duplicate benefits provided by Medicare.

(2) Benefits eliminated b y operation of the Medicare Catastrophic Coverage Act of 1988 transition provisions shall be restored.

(3) For Medicare supplement policies subject to the minimum standards adopted by the states pursuant to the Medicare Catastrophic Coverage Act of 1988, the minimum benefits shall be:

(a) Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the 61st day through the 90th day in any Medicare benefit period.

(b) Coverage for either all or none of the Medicare Part A inpatient deductible amount.

(c) Coverage of Part A Medicare eligible expenses incurred as daily hospital charges during use of Medicare's lifetime hospital inpatient reserve days.

(d) Upon exhaustion of all Medicare hospital inpatient coverage including the lifetime reserve days, coverage is ninety (90) percent of all Medicare Part A eligible expenses for hospitalization not covered by Medicare subject to a lifetime maximum benefit of an additional 365 days.

(e) Coverage under Medicare Part A for the reasonable cost of the first three (3) pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations or already paid for under Part B.

(f) Coverage for the coinsurance amount of Medicare eligible expenses under Part B regardless of hospital confinement, subject to a maximum calendar year out of pocket amount equal to Medicare Part B deductible.

(g) Effective January 1, 1990, coverage under Medicare Part B for the reasonable cost of the first three (3) pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations), unless replaced in accordance with federal regulations or already paid for under Part A, subject to the Medicare deductible amount.

Section 6. Minimum Benefit Standards. An insurance policy shall not be advertised, solicited, or issued for delivery in Kentucky as a Medicare supplement policy if it does not meet the following minimum standards. These are minimum standards and do not preclude the inclusion of other provisions or benefits which are consistent with these standards.

(1) General standards. The following standards apply to Medicare supplement policies and are in addition to all other requirements of this regulation.

(a) A Medicare supplement policy shall not deny a claim for losses incurred more than six (6) months from the effective date of coverage for a preexisting condition. The policy shall not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six (6) months before the effective date of coverage.

(b) A Medicare supplement policy shall not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents.

(c) A Medicare supplement policy shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible amount and copayment percentage factors. Premiums may be modified to correspond with such changes.

(d) A "noncancellable," "guaranteed renewable," or "noncancellable and guaranteed renewable" Medicare supplement policy shall not:

1. Provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than nonpayment of premium; or

2. Be cancelled or nonrenewed by the insurer solely on the grounds of deterioration of health.

(e)1. Except as authorized by the commissioner, an insurer shall neither cancel nor nonrenew a Medicare supplement policy or certificate for any reason other than nonpayment of premium or material misrepresentation.

2. If a group Medicare supplement insurance policy is terminated by the group policyholder and not replaced as provided in subparagraph 4 of this paragraph, the insurer shall offer certificate holders an individual Medicare supplement policy. The insurer shall offer the

certificate holder at least the following choices:

a. An individual Medicare supplement policy which provides for continuation of the benefits contained in the group policy; and

b. An individual Medicare supplement policy which provides only such benefits as are required to meet the minimum standards.

3. If membership in the group is terminated, the insurer shall:

a. Offer the certificate holder the conversion opportunities described in subparagraph 2 of this paragraph; or

b. Offer the certificate holder continuation of coverage under the group policy.

4. If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the succeeding insurer shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new group policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.

(f) Termination of a Medicare supplement policy shall be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be predicated upon continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits.

(2) Minimum benefit standards.

(a) Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the 61st day through the 90th day in any Medicare benefit period;

(b) Coverage for either all or none of Medicare Part A inpatient hospital deductible amount;

(c) Coverage of Part A Medicare eligible expenses incurred as daily hospital charges during use of Medicare's lifetime hospital inpatient reserve days;

(d) Upon exhaustion of all Medicare hospital inpatient coverage including the lifetime reserve days, coverage of ninety (90) percent of all Medicare Part A eligible expenses for hospitalization not covered by Medicare subject to a lifetime maximum benefit of an additional 365 days;

(e) Coverage under Medicare Part A for the reasonable cost of the first three (3) pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations or already paid for under Part B; and

(f) Coverage for the coinsurance amount of Medicare eligible expenses under Part B regardless of hospital confinement, subject to a maximum calendar year out of pocket amount equal to the Medicare Part B deductible maximum benefit.

(g) Effective January 1, 1990, coverage under Medicare Part B for the reasonable cost of the first three (3) pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations), unless replaced in accordance with federal regulations or already paid for under Part A, subject to the Medicare deductible amount.

(4) Medicare eligible expenses. Medicare eligible expenses shall mean health care expenses of the kinds covered by Medicare, to the extent recognized as reasonable by Medicare. Payment of benefits by insurers for Medicare eligible expenses may be conditioned upon the same or less restrictive payment conditions, including determinations of medical necessity, as are applicable to Medicare claims.

Section 7. Standards for Claims Payment under Section 4081 of the Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203). (1) Every person providing Medicare supplement policies shall comply with all provisions of Section 4081 of the Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203).

(2) Compliance with the requirements set forth in subsection (1) of this section must be certified on the Medicare Supplement Insurance Experience Reporting Form.

Section 8. Loss Ratio Standards. (1) Medicare supplement policies shall return to policyholders in the form of aggregate benefits under the policy, for the entire period for which rates are computed to provide coverage, on the basis of incurred claims experience or incurred health care expenses where coverage is provided by a health maintenance organization on a service rather than reimbursement basis, and earned premiums for such period and in accordance with accepted actuarial principles and practices:

(a) At least seventy-five (75) percent of the aggregate amount of premiums earned in the case of group policies; and

(b) At least sixty (60) percent of the aggregate amount of premiums earned in the case of individual policies.

(c) All filings and rate schedules shall demonstrate that actual and expected losses in relation to premiums comply with the requirements of this section.

(2) Every person providing Medicare supplement policies in this state shall file annually its rates, rating schedule, and supporting documentation, including ratios of incurred losses to earned premiums by number of years of policy duration demonstrating that it is in compliance with the foregoing applicable loss ratio standards and that the period for which the policy is rated is reasonable in accordance with accepted actuarial principles and experience.

(3) For the purposes of this section, policy forms shall be deemed to comply with the loss ratio standards if:

(a) For the most recent year, the ratio of incurred losses to earned premiums for policies or certificates which have been in force for three (3) years or more is greater than or equal to the applicable percentages contained in this section; and

(b) The expected losses in relation to premiums over the entire period for which the policy is rated comply with the requirements of this section.

An expected third year loss ratio which is greater than or equal to the applicable percentage shall be demonstrated for policies or certificates in force less than three (3) years.

(4) As soon as practicable prior to the effective date of Medicare benefit changes, every person providing Medicare supplement policies in Kentucky shall file with the commissioner, in accordance with applicable

filing procedures:

(a) Appropriate premium adjustments necessary to produce loss ratios as originally anticipated for the applicable Medicare supplement policies. Such supporting documents as necessary to justify the adjustment shall accompany the filing. Every person providing Medicare supplement policies to residents of Kentucky shall make such premium adjustments as are necessary to produce an expected loss ratio under such policies as will conform to the minimum loss ratio standards for Medicare supplement policies and which are expected to result in a loss ratio at least as great as that originally anticipated in the rates used to produce current premiums for such Medicare supplement policies. No premium adjustment which would modify the loss ratio experience under the policy other than the adjustments described in this subsection should be made with respect to a policy at any time other than upon its renewal date or anniversary date. Premium adjustments shall be in the form of refunds or premium credits and shall be made no later than upon renewal if a credit is given, or within sixty (60) days of the renewal date or anniversary date if a refund is provided to the insured or other person paying the premium. Premium adjustments shall be calculated for the period commencing with Medicare benefit changes; and

(b) Any appropriate riders, endorsements, or policy forms needed to accomplish the Medicare supplement insurance modifications necessary to eliminate benefit duplications with Medicare. Any such riders, endorsements, or policy forms shall provide a clear description of the Medicare supplement insurance benefits provided by the Medicare supplement policy.

Section 9. Filing Requirements for Out-of-state Group Policies. All group Medicare supplement policies and all certificates used under such policies in this state shall not be used in this state until filed with and approved by the commissioner.

Section 10. Permitted Compensation Arrangements. (1) An insurer or other entity may provide commission or other compensation to an agent or other representative for the sale of a Medicare supplement policy or certificate only if the first year commission or other first year compensation is no more than 200 percent of the commission or other compensation paid for selling or servicing the policy or certificate in the second year or period.

(2) The commission or other compensation provided in subsequent (renewal) years must be the same as that provided in the second year or period and must be provided for a reasonable number of renewal years.

(3) No entity shall provide compensation to its agents or other producers and no agent or producer shall receive compensation greater than the renewal compensation payable by the replacing insurer on renewal policies or certificates if an existing policy or certificate is replaced unless benefits of the new policy or certificate are clearly and substantially greater than the benefits under the replaced policy.

(4) For purposes of this section, "compensation" includes pecuniary or nonpecuniary remuneration of any kind relating to the sale or renewal of the policy or certificate including, but not limited to, bonuses, gifts, prizes, awards, and finders' fees.

Section 11. Required Disclosure Provisions. (1) General rules.

(a) Medicare supplement policies shall include a renewal provision. The language or specifications of such provision must be consistent with the type of insurance policy issued. Such provision shall be appropriately captioned and shall appear on the first page of the policy.

(b) Except for riders or endorsements by which the insurer effectuates a request made in writing by the insured, exercises a specifically reserved right under a Medicare supplement policy, or is required to reduce or eliminate benefits to avoid duplication of Medicare benefits, all riders or endorsements added to a Medicare supplement policy after the date of issue or at reinstatement or renewal which reduce or eliminate benefits or coverage in the policy shall require a signed acceptance by the insured. After the date of policy issue, any rider or endorsement which increases benefits or coverage with a concomitant increase in premium during the policy term must be agreed to in writing signed by the insured, unless the benefits are required by the minimum standards for Medicare supplement policies, or if the increased benefits or coverage is required by law. Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, such premium charge shall be set forth in the policy.

(c) A Medicare supplement policy which provides for the payment of benefits based on standards described as "usual and customary," "reasonable and customary," or words of similar import, shall include a definition of such terms and an explanation of such terms in its accompanying outline of coverage.

(d) If a Medicare supplement policy contains any limitations with respect to preexisting conditions, such limitations must appear as a separate paragraph of the policy and be labeled as "preexisting condition limitations."

(e) Medicare supplement policies or certificates shall have a notice prominently printed on the first page of the policy or certificate or attached thereto stating in substance that the policyholder or certificate holder shall have the right to return the policy or certificate within at least thirty (30) days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the insured is not satisfied for any reason.

(f) Insurers issuing insurance policies and certificates thereunder covering accident and sickness and hospital or medical expenses on an expense incurred or indemnity basis, other than incidentally, to persons eligible for Medicare by reason of age shall provide to all applicants a Medicare supplement buyer's guide in the form developed jointly by the National Association of Insurance Commissioners and the Health Care Financing Administration. Delivery of the buyer's guide shall be made whether or not such policies or certificates are advertised, solicited, or issued as Medicare supplement policies as defined in this regulation. Delivery of the buyer's guide shall be made to the applicant at the time of application and

acknowledgment of receipt of the buyer's guide shall be obtained by the insurer, except that direct response insurers shall deliver the buyer's guide to the applicant upon request, but not later than the time the policy is delivered.

(2) Notice requirements.

(a) As soon as practicable, but no later than thirty (30) days prior to the annual effective date of any Medicare benefit changes, every insurer providing coverage to a resident of Kentucky under a Medicare supplement policy shall notify its insureds of modifications it has made to Medicare supplement policies. Such notice shall be in a format acceptable to the commissioner. For the years 1989 and 1990, and if prescription drugs are covered in 1991, such notice shall be in the format prescribed in Appendices A, B, and C. In addition, such notice shall:

1. Include a description of revisions to the Medicare program and a description of each modification made to the coverage provided under the Medicare supplement insurance policy or contract; and

2. Inform each covered person as to when any premium adjustment is to be made due to changes in Medicare.

(b) The notice of benefit modifications and any premium adjustments shall be in outline form and in clear and simple terms so as to facilitate comprehension.

(c) Such notices shall not contain or be accompanied by any solicitation.

(3) Outline of coverage requirements for Medicare supplement policies.

(a) Insurers issuing Medicare supplement policies or certificates for delivery in this state shall provide an outline of coverage to all applicants at the time application is made and, except for direct response insurers, shall obtain an acknowledgment of receipt of such outline from the applicant.

(b) If an outline of coverage is provided at the time of application and the Medicare supplement policy or certificate is issued on a basis which would require revision of the outline, a substitute outline of coverage properly describing the policy or certificate must accompany such policy or certificate when it is delivered and contain the following statement, in no less than twelve (12) point type immediately above the insurer's name:

"NOTICE: READ THIS OUTLINE OF COVERAGE CAREFULLY. IT IS NOT IDENTICAL TO THE OUTLINE OF COVERAGE PROVIDED UPON APPLICATION AND THE COVERAGE ORIGINALLY APPLIED FOR HAS NOT BEEN ISSUED."

(c) The outline of coverage provided to applicants pursuant to this subsection shall be in the form prescribed below:

(INSURER NAME)
OUTLINE OF MEDICARE SUPPLEMENT COVERAGE
AND PREMIUM INFORMATION
Use this outline to compare benefits
and premiums among policies

1. Read your policy carefully - this outline of coverage provides a very brief description of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth in detail the rights and obligations of both you and your insurance company. It is, therefore, important that you READ YOUR POLICY CAREFULLY!
2. Medicare supplement coverage - policies of this category are designed to supplement Medicare by covering some hospital, medical, and surgical services which are partially covered by Medicare. Coverage is provided for hospital inpatient charges and some physician charges, subject to any deductibles and copayment provisions which may be in addition to those provided by Medicare, and subject to other limitations which may be set forth in the policy. The policy does not provide benefits for custodial care such as help in walking, getting in and out of bed, eating, dressing, bathing, and taking medicine (this final sentence may be deleted if coverage for custodial care is, in fact, provided).
3. a. (for agents)
   Neither (insert insurer's name) nor its agents are connected with Medicare.
   b. (for direct response insurers:)
   (insert insurer's name) is not connected with Medicare.
4. A brief summary of the major medical benefit gaps in Medicare Parts A and B with a parallel description of supplemental benefits, including dollar amounts (and indexed copayments or deductibles as appropriate), provided by Medicare supplement coverage in the following order:

DESCRIPTION	THIS POLICY PAYS**	YOU PAY
I. Minimum Standards		
SERVICE		
PART A		
Inpatient Hospital Services:		
Semiprivate Room & Board		
Miscellaneous Hospital Services & Supplies, such as Drugs, X-rays, Lab Tests & Operating Room		
Blood		
PART B		
Medical Expense:		
Services of a Physician/Outpatient Services		
Medical Supplies other than Prescribed Drugs		
BLOOD		
MISCELLANEOUS		
Immunosuppressive Drugs		
II. Additional Benefits		
PART A		
Part A Deductible		
Private Rooms		
In-hospital Private Nurses		
Skilled Nursing Facility Care		
PARTS A & B		
Home Health Services		
PART B		
Part B Deductible		
Medical Charges in Excess of Medicare Allowable Expenses (Percentage Paid)		

OUT-OF-POCKET MAXIMUM

PRESCRIPTION DRUGS

MISCELLANEOUS
Respite Care Benefits
Expenses Incurred in Foreign Country
Other:

TOTAL PREMIUM $_____

IN ADDITION TO THIS OUTLINE OF COVERAGE, (INSURANCE COMPANY NAME) WILL SEND AN ANNUAL NOTICE TO YOU 30 DAYS PRIOR TO THE EFFECTIVE DATE OF MEDICARE CHANGES WHICH WILL DESCRIBE THESE CHANGES AND THE CHANGES IN YOUR MEDICARE SUPPLEMENT COVERAGE.

**If this policy does not provide coverage for a benefit listed above, the insurer must state "no coverage" beside that benefit in the first column. (The order of benefits in this outline of coverage should be adjusted by those states which have adopted additional minimum standards.)

5. (The following charts shall accompany the outline of coverage:)

(COMPANY NAME)

NOTICE OF CHANGES IN MEDICARE AND YOUR MEDICARE SUPPLEMENT COVERAGE - 1990

THE FOLLOWING CHART BRIEFLY DESCRIBES THE MODIFICATIONS IN MEDICARE AND IN YOUR MEDICARE SUPPLEMENT COVERAGE. PLEASE READ THIS CAREFULLY!

(A BRIEF DESCRIPTION OF THE REVISIONS TO MEDICARE PARTS A & B WITH A PARALLEL DESCRIPTION OF SUPPLEMENTAL BENEFITS WITH SUBSEQUENT CHANGES, INCLUDING DOLLAR AMOUNTS, PROVIDED BY THE MEDICARE SUPPLEMENT COVERAGE IN SUBSTANTIALLY THE FOLLOWING FORMAT.)

SERVICES	MEDICARE BENEFITS		YOUR MEDICARE SUPPEMENT COVERAGE	
	In 1989 Medicare Pays Per Calendar Year	Effective January 1, 1990, Medicare Will Pay	In 1989 Your Coverage Pays	Effective January 1, 1990 Your Coverage Will Pay
MEDICARE PART A SERVICES AND SUPPLIES				
Inpatient Hospital Services:	Unlimited number of hopsital days after $560 deductible	All but $592 for first 60 days/ benefit period		
Semiprivate Room & Board		All but $148 a day for 61st-90th days/ benefit period		
Miscellaneous Hospital Services & Supplies, such as Drugs, X-rays, Lab Tests & Operating Room		All but $296 a day for 91st-150th days (if individual chooses to use 60 nonrenewable lifetime reserve days		
BLOOD	Pays all costs except payment of deductible (equal to costs for 1st 3 pints) each calendar year. Part A blood deductible reduced to the extent paid under Part B	Pays all costs except nonreplacement fees (blood deductible) for 1st 3 pints in each benefit year		
Skilled Nursing Facility Care	There is no prior confinement requirement for this benefit	100% of costs for 1st 20 days (after a 3 day prior hospital confinement)/ benefit period		
	First 8 days-All but $25.50 a day	All but $74 a day for 21st-100th days/benefit period		
	9th-150th day 100% of costs	Beyond 100 days - Nothing/benefit period		

	Beyond 150 days - Nothing	
MEDICARE PART B SERVICE & SUPPLES	80% of allowable charges (after $75 deductible)	80% of allowable charges (after $75 deductible/ calendar year)
PRESCRIPTION DRUGS	Inpatient prescription drugs. 80% of allowable charges for immunosuppressive drugs during the first year following a covered transplant (after $75 deductible/ calendar year)	Inpatient prescription drugs. 80% of allowable charges for immunosuppressive drugs during the first year following a covered transplant (after $75 deductible/ calendar year)
BLOOD	80% of all costs except nonreplacement fees (blood deductible) for 1st 3 pints in each benefit period (after $75 deductible/calendar year	80% of costs except nonreplacement fees (blood deductible) for 1st 3 pints (after deductible/calendar year

(Any other policy benefits not mentioned in this chart should be added to the chart in the order precribed by the outline of coverage. If there are corresponding Medicare benefits, they should be shown.)

(Describe any coverage provisions changing due to Medicare modifications.)

(Include information about when premium adjustments that may be necessary due to changes in Medicare benefits will be effective.)

THIS CHART SUMMARIZING THE CHANGE IN YOUR MEDICARE BENEFITS AND IN YOUR MEDICARE SUPPLEMENT PROVIDED BY (COMPANY) ONLY BRIEFLY DESCRIBES SUCH BENEFITS. FOR INFORMATION ON YOUR MEDICARE BENEFITS CONTACT YOUR SOCIAL SECURITY OFFICE OR THE HEALTH CARE FINANCING ADMINISTRATION. FOR INFORMATION ON YOUR MEDICARE SUPPLEMENT (policy) CONTACT:

(COMPANY OR FOR AN INDIVIDAL POLICY - NAME OF AGENT)
(ADDRESS/PHONE NUMBER)

6. A statement that the policy does not cover the following:
   a. Private duty nursing;
   b. Skilled nursing home care costs (beyond what is covered by Medicare);
   c. Custodial nursing home care costs;
   d. Intermediate nursing home care costs;
   e. Home health care above the number of visits covered by Medicare;
   f. Physician charges (above Medicare's reasonable charges);
   g. Drugs (other than prescription drugs furnished during a hospital or skilled nursing facility stay);
   h. Care received outside the United States; and
   i. Dental care or dentures, checkups, routine immunizations, cosmetic surgery, routine foot care, and examinations for the cost of eyeglasses or hearing aids.
7. A description of any policy provisions which exclude, eliminate, resist, reduce, limit, delay, or in any manner operate to qualify payments of benefits described in paragraph 4 above, including conspicuous statements:
   a. That the chart summarizing Medicare benefits only briefly describes such benefits; and
   b. That the Health Care Financing Administration or its Medicare publications should be consulted for further details and limitations.
8. A description of policy provisions respecting renewability or continuation of coverage, including any reservation of rights to change premium.
9. The amount of premium for this policy.

(4) Notice regarding policies or subscriber contracts which are not Medicare supplement policies. Any accident or sickness insurance policy (other than a Medicare supplement policy), a policy issued pursuant to a contract under Section 1876 of the Federal Social Security Act (42 U.S.C. §1395 et seq.), disability income policy, basic, catastrophic, or major medical expense policy, or single premium nonrenewable policy issued for delivery in Kentucky to persons eligible for Medicare by reason of age shall notify insureds under such policy that the policy is not a Medicare supplement policy. Such notice shall either be printed on or attached to the first page of the outline of coverage delivered to insureds under the policy, or if no outline of coverage is delivered, printed on or attached to the first

page of the policy or certificate delivered to insureds. Such notice shall be in no less than twelve (12) point type and shall contain the following language:

"THIS (POLICY OR CERTIFICATE) IS NOT A MEDICARE SUPPLEMENT POLICY. If you are eligible for Medicare, review the Medicare supplement buyer's guide available from the insurance company."

Section 12. Requirements for Application Forms and Replacement Coverage. (1) Comparison statement. When a Medicare supplement policy is to replace another Medicare supplement policy, there shall be presented to the applicant, no later than at the time of taking the application, a comparison statement which shall be in the form prescribed by the commissioner. Direct response insurers shall present the comparison statement to the applicant not later than at the time of delivery of the policy. Agents shall obtain the signature of the applicant on the comparison statement and shall sign the comparison statement and send the comparison statement to the insurer. A copy of the comparison statement shall be attached to the replacement policy.

(2) Application forms shall include the following questions designed to elicit information as to whether, as of the date of the application, the applicant has another Medicare supplement insurance policy or certificate in force or a Medicare supplement policy or certificate is intended to replace any other accident and sickness policy or certificate presently in force. A supplementary application or other form to be signed by the applicant and the agent, except where the coverage is sold without an agent, containing these questions may be used:

(a) Do you have another Medicare supplement insurance policy or certificate in force?

(b) Did you have another Medicare supplement policy or certificate in force during the last twelve (12) months?

1. If so, with which company?
2. If that policy lapsed, when did it lapse?

(c) Are you covered by Medicaid?

(d) Do you intent to replace any of your health insurance coverage with this policy (or certificate)?

(3) Agents shall list any other health insurance policies they have sold to the applicant.

(a) List policies sold which are still in force.

(b) List policies sold in the last five (5) years which are no longer in force.

(4) Upon determining that a sale will involve replacement, an insurer (other than a direct response insurer), or its agent, shall furnish the applicant, prior to issuance or delivery of the Medicare supplement policy or certificate, a notice regarding replacement of accident and sickness insurance. One (1) copy of such notice signed by the applicant and the agent, except where coverage is sold without an agent, shall be provided to the applicant and an additional signed copy shall be retained by the insurer. A direct response insurer shall deliver to the applicant at the time of the issuance of the policy the notice regarding replacement of accident and sickness coverage. In no event, however, will such a notice be required in the solicitation of "accident only" and "single premium nonrenewable" policies.

(5) The notice required by subsection (4) of this section for an insurer (other than a direct response insurer) shall be provided in substantially the following form:

NOTICE TO APPLICANT REGARDING REPLACEMENT OF MEDICARE SUPPLEMENT INSURANCE
(Insurer Name and Address)
SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE FUTURE.

According to (your application or information you have furnished), you intend to lapse or otherwise terminate existing accident and sickness insurance and replace it with a policy to be issued by (insurer name). Your new policy provides (insert here an amount of time not less than thirty (30) days) within which you may decide without cost whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy. You should review this new coverage carefully, comparing it with all health insurance you now have, and terminate your present policy only if, after due consideration, you find that purchase of this Medicare supplement coverage is a wise decision.

STATEMENT TO APPLICANT BY AGENT (OR OTHER REPRESENTATIVE):

(Use additional sheets, as necessary).

I have reviewed your current health insurance coverage. I believe the replacement of insurance involved in this transaction materially improves your position. My conclusion has taken into account the following considerations, which I call to your attention:

(a) Health conditions which you may presently have (so-called preexisting conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay of a claim for benefits under the new policy, whereas a similar claim might have been payable under your present policy (this paragraph may be modified if preexisting conditions are, in fact, covered under the new policy).

(b) State law provides that your replacement policy or certificate may not contain new preexisting conditions, waiting periods, elimination periods, or probationary periods. The insurer will waive any time periods applicable to preexisting conditions, waiting periods, elimination periods, or probationary periods in the new policy (or coverage) for similar benefits to the extent such time was spent (depleted) under the original policy.

(c) If you are replacing existing Medicare supplement insurance coverage, you may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.

(d) If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical and health history. Failure to include all material medical information on an application may provide a basis for the insurer to deny any future claims and to refund your premium as

though your policy had never been in force. After the application has been completed and before you sign it, reread it carefully to be certain that all information has been recorded properly.

_____
Signature of Agent or Other Representative

_____
Typed Name and Address of Agent

The above "Notice to Applicant" was delivered to me on:

_____
Date

_____
Applicant's Signature

(6) The notice required by subsection (4) of this section for a direct response insurer shall be as follows:

NOTICE TO APPLICANT REGARDING REPLACEMENT
OF MEDICARE SUPPLEMENT INSURANCE
(Insurer's Name and Address)
SAVE THIS NOTICE! IT MAY BE IMPORTANT
TO YOU IN THE FUTURE.

According to (your application or information you have furnished) you intend to lapse or otherwise terminate existing Medicare supplement insurance and replace it with the policy delivered with this notice issued by (insurer name). Your new policy provides thirty (30) days within which you may decide without cost whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy. You should review this new coverage carefully, comparing it with all accident and sickness coverage you now have, and terminate your present policy only if, after due consideration, you find that purchase of this Medicare supplement coverage is a wise decision.

(a) Health conditions which you may presently have (so-called preexisting conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay of a claim for benefits under the new policy, whereas a similar claim might have been payable under your present policy.

(b) State law provides that your replacement policy or certificate may not contain new preexisting conditions, waiting periods, elimination periods, or probationary periods. Your insurer will waive any time periods applicable to preexisting conditions, waiting periods, elimination periods, or probationary periods in the new policy (or coverage) for similar benefits to the extent such time was spent (depleted) under the original policy.

(c) If you are replacing existing Medicare supplement insurance coverage, you may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.

(d) (To be included only if the application is attached to the policy). If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, read the copy of the application attached to your new policy and be sure that all questions are answered fully and correctly. Omissions or misstatements in the application could cause an otherwise valid claim to be denied. Check the application and write to (insurer name and address) within thirty (30) days if any information is not correct and complete, or if any past medical history has been left out of the application.

_____
Insurer Name

Section 13. Filing Requirements for Advertising of Medicare Supplement Policies. (1) Every insurer, nonprofit hospital, medical-surgical, dental, and health service corporation, or health maintenance organization providing Medicare supplement policies in Kentucky shall provide a copy of any Medicare supplement policy advertisement intended for use in Kentucky whether through written, radio, or television, to the commissioner prior to such use. Advertisements need not be approved prior to use, but an advertisement shall not be used if it has been disapproved by the commissioner and notice of such disapproval has been given to the insurer, nonprofit hospital, medical-surgical, dental, and health service corporation, or health maintenance organization.

(2) Insurers and agents shall not use the names and addresses of persons purchased as "leads" unless the solicitation material used to obtain the names and addresses of the "leads" are filed as advertisements as required by this section. Insurers and agents shall not use such "leads" if the solicitation materials have been disapproved by the commissioner.

Section 14. Policy Delivery. If a Medicare supplement policy is not delivered by mail, the agent or insurer shall obtain a signed and dated delivery receipt from the insured. If the delivery receipt is obtained by an agent, the agent shall forward the delivery receipt to the insurer.

Section 15. Standards for Marketing. (1) Every insurer, nonprofit hospital, medical-surgical, dental, and health service corporation, and health maintenance organization marketing Medicare supplement insurance coverage in Kentucky, directly or through its agents or other representatives, shall:

(a) Establish marketing procedures to assure that any comparison of policies by its agents or other representatives will be fair and accurate.

(b) Establish marketing procedures to assure excessive insurance is not sold or issued.

(c) Display prominently by type, stamp, or other appropriate means, on the first page of the outline of coverage and the policy the following disclosure:

"Notice to buyer: This policy may not cover all of the costs associated with medical care incurred by the buyer during the period of coverage. The buyer is advised to review carefully all policy limitations."

(d) Inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for Medicare supplement insurance already has accident and sickness insurance and the types and amounts of any such insurance.

(e) Every insurer or entity marketing Medicare

supplement insurance shall establish auditable procedures for verifying compliance with this subsection.

(2) In addition to the practices prohibited in KRS Chapter 304.12 and 806 KAR Chapter 12, the following acts and practices are prohibited:

(a) Twisting. Making any unfair or deceptive representation or incomplete or fraudulent comparison of any insurance policies or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on, or convert any insurance policy or to take out a policy of insurance with another insurer.

(b) High pressure tactics. Employing any method of marketing having the effect of or tending to induce the purchase of insurance through force, fright, threat, whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance.

(c) Cold lead advertising. Making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance agent or insurance company.

Section 16. Appropriateness of Recommended Purchase and Excessive Insurance. (1) In recommending the purchase or replacement of any Medicare supplement policy or certificate an agent shall make reasonable efforts to determine the appropriateness of recommended purchase or replacement.

(2) Any sale of medicare supplement coverage which will provide an individual more than one (1) Medicare supplement policy or certificate is prohibited, but additional Medicare supplement coverage may be sold if, it would insure no more than 100% of the individual's actual medical expenses covered under the combined policies.

Section 17. Reporting of Multiple Policies. (1) On or before March 1, every insurer or other entity providing Medicare supplement insurance coverage in this state shall report the following information for every individual resident of this state for which the insurer or entity has in force more than one (1) Medicare supplement insurance policy or certificate:

(a) Policy and certificate number; and

(b) Date of issuance.

(2) The items set forth above shall be grouped by individual policyholder.

Section 18. Prohibition Against Preexisting Conditions, Waiting Periods, Elimination Periods, and Probationary Periods in Replacement Policies or Certificates. If a Medicare supplement policy or certificate replaces another Medicare supplement policy or certificate, the replacing insurer shall waive any time periods applicable to preexisting conditions, waiting periods, elimination periods, and probationary periods in the new Medicare supplement policy for similar benefits to the extent such time was spent under the original policy.

Section 19. Transition of Medicare Supplement Policy Benefits and Premiums Due to Changes in Medicare. (1) The purpose of this section is to assure the orderly implementation and conversion of Medicare supplement insurance benefits and premiums due to changes in the federal Medicare program, to provide for the reasonable standardization of the coverage, terms, and benefits of Medicare supplement policies, to facilitate public understanding of such policies or contracts, to eliminate provisions contained in such policies or contracts which may be misleading or confusing in connection with the purchase of such policies or contracts, to eliminate policy or contract provisions which may duplicate Medicare benefits, to provide for adjustment of required minimum benefits for Medicare supplement policies, to provide notice to former policy holders of an offer to reinstitute coverage, to provide full disclosure of policy or contract benefits and benefit changes, and to provide for appropriate premium adjustments.

(2) This section shall take precedence over other requirements relating to Medicare supplement policies only to the extent necessary to assure that benefits are not duplicated and to adjust minimum required benefits to changes in Medicare benefits, that applicants receive adequate notice and disclosure of changes in Medicare supplement policies and contractgs, that appropriate premium adjustments are made in a timely manner, and that premiums are reasonable in relation to benefits. Except as otherwise provided, this regulation shall apply to:

(a) All Medicare supplement policies and contracts delivered, issued for delivery, or which are otherwise subject to the jurisdiction of Kentucky on or after the effective date of this regulation; and

(b) All certificates issued under group Medicare supplement policies as provided in paragraph (a) of this subsection.

(3) Benefit conversion requirements.

(a) Effective January 1, 1990, no Medicare supplement insurance policy, contract, or certificate in force in this state shall contain benefits which duplicate benefits provided by Medicare.

(b) Benefits eliminated by operation of the Medicare Catastrophic Coverage Act of 1988 transition provisions shall be restored.

(c) For Medicare supplement policies subject to the minimum standards adopted by the states pursuant to the Medicare Catastrophic Coverage Act of 1988, the minimum benefits shall be:

1. Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the 61st day through the 90th day in any Medicare benefit period;

2. Coverage for either all or none of the Medicare Part A inpatient hospital deductible amounts;

3. Coverage of Part A Medicare eligible expenses incurred as daily hospital charges during use of Medicare's lifetime hospital inpatient reserve days;

4. Upon exhaustion of all Medicare hospital inpatient coverage including the lifetime reserve days, coverage of ninety (90) percent of all Medicare Part A eligible expenses for hospitalization not covered by Medicare subject to a lifetime maximum benefit of an additional 365 days;

5. Coverage under Medicare Part A for the reasonable cost of the first three (3) pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) uness replaced in accordance with

federal regulations or already paid for under Part B.

6. Coverage for the coinsurance amount of Medicare eligible expenses under Part B regardless of hospital confinement, subject to a maximum calendar year out of pocket amount equal to the Medicare Part B deductible; and

7. Effective January 1, 1990, coverage under Medicare Part B for the reasonable cost of the first three (3) pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations), unless replaced in accordance with federal regulations or already paid for under Part A, subject to the Medicare deductible amount.

(d) General requirements. No later than January 31, 1990, every entity providing Medicare supplement insurance or benefits to a Kentucky resident shall notify its policyholders of modifications it has made to Medicare supplement insurance policies or contracts. Such notice shall be in the format set forth in Appendix A.

1. The notice shall not contain or be accompanied by any solicitation.

2. No modifications to an existing Medicare supplement policy shall be made at the time of or in connection with the notice requirements of this section except to the extent necessary to accomplish the purposes set forth in subsection (1) of this section.

(4) Rate and form filing requirements.

(a) As soon as practicable, but no later than forty-five (45) days after the effective date of the Medicare benefit changes, every entity issuing Medicare supplement policies in Kentucky shall file with the commissioner, in accordance with the applicable filing procedures, the following:

1. Appropriate premium adjustments necessary to produce loss ratios as originally anticipated for the applicable policies or contracts. Supporting documents which are necessary to justify the adjustment shall accompany the filing.

2. Any appropriate riders, endorsements, or policy forms needed to accomplish Medicare supplement policy modifications necessary to eliminate benefit duplications with Medicare and to provide the benefits required by subsection (3) of this section. Any such riders, endorsements, or policy forms shall provide a clear description of the Medicare supplement benefits provided by the policy or contract.

(b) Upon satisfying the filing and approval requirements, every entity providing Medicare supplement policies in Kentucky shall provide each covered person with any rider, endorsement, or policy form necessary to make the adjustment outlined in subsection (3) of this section.

(c) Any premium adjustments shall produce an expected loss ratio under such policy or contract as will conform with minimum loss ratio standards for Medicare supplement policies and shall result in an expected loss ratio of at least as great as that originally anticipated by the insurer for such Medicare supplement insurance policies or contracts. Premium adjustments may be calculated for the period commencing with Medicare benefit changes.

(5) Offer of reinstitution of coverage.

(a) Except as provided in paragraph (b) of this subsection, in the case of an individual who had in effect on December 31, 1988, a Medicare supplement policy or certificate and the individual terminated coverage under such policy before the date of the enactment of the repeal of the Medicare Catastrophic Coverage Act of 1988, the insurer shall:

1. Provide written notice as soon as practicable to the policyholder or certificate holder at the last address known to the insurer of the offer described below; and

2. Offer the individual, reistitution of coverage effective as of January 1, 1990, under the following terms:

a. There will be no provision for any waiting period with respect to treatment of preexisting conditions;

b. Provision for coverage which is substantially equivalent to coverage in effect before the date of termination; and

c. Provision for classification of premiums on terms which are at least as favorable to the policyholder or certificate holder as the premium clasification terms that would have applied to the policyholder or certificate holder had the coverage never terminated.

(b) An insurer is not required to make the offer under paragraph (a)2 of this subsection in the case of an individual who is a policyholder or certificate holder of another Medicare supplement policy as of January 1, 1990, if the individual is not subject to a waiting period with respect to treatment of preexisting condition under the other policy.

(6) Requirements for new polices and certificates.

(a) Effective January 1, 1990, no Medicare supplement insurance policy, contract or certificate shall be delivered or issued for delivery in Kentucky which provides benefits which duplicate benefits provided by Medicare. No such policy, contract, or certificate shall provide less benefits than those required under this regulation, except where duplication of Medicare benefits would result and except as required by this section.

(b) General requirements.

1. Within ninety (90) days after the effective date of this regulation, every entity issuing Medicare supplement policies shall file new Medicare supplement policies or contracts which eliminate any duplication of Medicare supplement benefits provided by Medicare, which adjust minimum required benefits to changes in Medicare benefits and which provide a clear description of the policy or contract benefit.

2. The filing required under subsection (4)(a)1 of this section shall provide for loss ratios which are in compliance with all minimum standards.

3. Every applicant for a Medicare supplement insurance policy or certificate shall be provided an outline of coverage which simplifies and accurately describes benefits provided by Medicare and policy or certificate benefits and limitations.

Section 20. Severability. If any provision of this regulation or the application of this regulation to any person or circumstance is for any reason held to be invalid, the remainder of the regulation and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 21. Repeal of 806 KAR 17:065; Effective Date. (1) 806 KAR 17:060, Minimum standards for Medicare supplement policies, is

repealed effective.

(2) This regulation shall become effective upon completion of its review pursuant to KRS Chapter 13A.

(For Appendix A, see Chart in Section 5 of the "OUTLINE OF MEDICARE SUPPLEMENT COVERAGE AND PREMIUM INFORMATION", (Section 11(3)(c) of this regulation)

ELIZABETH P. WRIGHT, Commissioner
THEODORE T. COLLEY, Secretary
APPROVED BY AGENCY: July 5, 1990
FILED WITH LRC: July 12, 1990 at 11 a.m.

PUBLIC HEARING: Persons with an interest in the subject matter of the proposed regulation may comment at a public hearing scheduled for August 21, 1990 at 9 a.m. (ET) in the offices of the Kentucky Department of Insurance, 229 West Main Street, Frankfort, Kentucky 40601. Written comments may be submitted to Elizabeth Wright, Commissioner, Kentucky Department of Insurance, P.O. Box 517, Frankfort, Kentucky 40602. Written comments must be received prior to 9 a.m. (ET) on August 21, 1990, in order to receive consideration. The public hearing scheduled above may be cancelled if no one notifies the Commissioner of Insurance at least five days prior to the hearing that they will be in attendance at the hearing to comment.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Patrick Watts

Need for the Proposed Regulation: In 1988, Congress adopted the Medicare Catastrophic Coverage Act, which amended §1882 of Title 18 of the Social Security Act, 42 U.S.C. §1395ss. Based on these amendments, the Department adopted 806 KAR 17:065, Minimum standards for Medicare supplement insurance, because the change in federal Medicare laws rquired alteration of state insurance regulations relating to Medicare supplement insurance.

In 1989, the Congress repealed the Medicare Catastrophic Coverage Act of 1988. In turn, this requires amendment of the state regulations relating to Medicare supplement insurance. 42 U.S.C.]a1395ss requires the states to adopt amended Medicare supplement insurance regulations by December 13, 1990, the one year anniversary of President Bush's approval of the Medicare Catastrophic Coverage Repeal Act of 1989.

The proposed regulation is similar to 806 KAR 17:065, but with important differences in two aspects: a return to the standards which were required to be repealed by the adoption of the Medicare Catastrophic Coverage Act, but which are once again necessary because of the repeal of the Medicare Catastrophic Coverage Act, and consumer protection amendments adopted by the National Association of Insurance Commissioners in December, 1989. Both of these provisions are required by federal law to be in the regulation.

(1) Type and number of entities affected: The proposed regulation will affect the 100 insurers writing Medicare supplement insurance in Kentucky. The proposed regulation will also affect approximately 35,000 insurance agents who have authority to sell health insurance, although not all of these agents are actively engaged in the sale of Medicare supplement insurance. The proposed regulation will also affect an unknown number of Medicare supplement insurance policyholders.

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

1. First year: These minimum standards are imposed by federal law. Therefore, the proposed regulation imposes no cost or savings to those affected.

2. Continuing costs or savings: The proposed regulation imposes minimum standards required by federal law. Therefore, the proposed regulation has no cost or savings.

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

(b) Reporting and paperwork requirements: The proposed regulation imposes minimum standards required by federal law, and, therefore, the reporting and paperwork requirements are not imposed by the Department of Insurance. The requirement of a comparison statement for replacement involving a Medicare supplement insurance policy (see §12) is not a part of the model regulation, althrough it is likely to be adopted in the near future as part of the NAIC Model.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The regulation is required by federal law, and therefore, costs or savings are not attributable to the proposed regulation.

2. Continuing costs or savings: The proposed regulation is required by federal law, and, therefore, continuing costs, or savings are not imposed by federal law, not the proposed regulation.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None that are not imposed by federal law.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: 42 U.S.C. §1395ss requires states to have regulations imposing minimum standards for Medicare supplement insurance policies or the federal government will assume regulation of these policies. Therefore, there is no alternative (other than allowing federal regulation) to having minimum standards for Medicare supplement insurance policies.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: KRS 304.14-550 requires Medicare supplement insurance policies to have a 10 day "free look" provision under which policyholders may return a Medicare supplement insurance policy to the insurer for any rason and receive a full premium refund if the policy is returned to the insurer within 10 days of delivery to the insured. The National Association of Insurance Commissioners model regulation, which is the minimum standard imposed by federal law, requires a 30 day "free look" period. §12 of the proposed regulation imposes a 30 day free look period in conformity with the model regulation because, even though in conflict with RKS 304.14-550, insurers will not object to it because it is part of the model regulatin and is required by federal law.

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments:
TIERING: Was tiering applied? Tiering is recognized in distinctions between insurers which sell Medicare supplement insurance through agents and through direct response marketing, distinctions between individual and group policies, and distinctions between the benefits provided by policies.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 42 U.S.C. §1395ss.
2. State compliance standards. State compliance standards consist of a model regulation adopted by the National Association of Insurance Commissioners. The current version of the regulation is 806 KAR 17:065. However, due to the repeal of the Medicare Catastrophic Coverage Act by the Congress, a new regulation must be adopted by all states. One difference between the model regulation and the proposed regulation is that §12 of the proposed regulation requires insurers to provide a comparison statement for a Medicare supplement policy which is proposed to replace an existing Medicare supplement policy. The model regulation does not require a comparison statement, but the NAIC will likely adopt such a requirement in the near future. Another distinction between the proposed regulation and the model regulation is that §14 of the proposed regulation requires a signed delivery receipt for any policy not delivered by mail. This requirement does not appear in the model regulation. The proposed regulation prohibits insurers or agents from using "leads" purchased from another person unless solicitation materials used by such person have been filed as an advertisement under §13 of the proposed regulation. The model regulation does not contain this specific regulation, although its language arguably could extend to it.
3. Minimum or uniform standards contained in the federal mandate. 42 U.S.C. §1395ss requires states to adopt standards at least as stringent as those set forth in the National Association of Insurance Commissioners model regulation.
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The items set forth above which are not contained in the model regulation differ from the federal regulation in that they are beyond the minimum required standards, but they do not violate fedral law because the proposed regulation is at least as stringent as the model regulation.
5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The requirement that a comparison statement, that is, a direct comparison of proposed replacement Medicare supplement insurance with existing Medicare supplement insurance is highly beneficial to the policyholder in determining whether a replacement transaction is appropriate. The Kentucky Department has imposed this requirement for Medicare supplement insurance policies since 1982. The requirement of a signed delivery receipt is to provide evidence of delivery of the policy to mark the beginning of the "free look" period. The department has encountered problems when agents deliver policies, insureds try to return them, and there is a dispute as to whether the policy was returned within the "free look" period. A signed delivery receipt will minimize these problems.

Prohibiting insurers and agents from using "leads" unelss the solicitation materials used to obtain the "leads" has been approved by the department is necessary to suppress the unfair or deceptive business practices of persons obtaining "leads" for sale to insurers and agents. Typically, such persons will send a mailer to a senior citizen offering information on Medicare of Social Security or call themselves "Federal Medicare Division", or some similar name, with a return address in Washington, D.C. The responses are received at the Washington addres and then forwarded to an address (sometimes a post office box) in the midwest. The "leads" are then sold to insurers and agents, who often do not bring the consumer information on Medicare of Social Security, but instead try to sell the consumer insurance. By requiring solicitation materials to be filed by insurers or agents purchasing "leads", the activities of so-called "lead" companies can be regulated more effectively.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
Minutes of the August 13 & 14, 1990 Meeting

The August meeting of the Administrative Regulation Review Subcommittee was held on Monday, August 13, 1990 at 2 p.m. and on Tuesday, August 14, 1990 at 10 a.m. in Room 105 of the Capitol Annex. Representative Mark D. O'Brien, Chairman, called the meeting to order, and the secretary called the roll. On motion of Senator Quinlan, seconded by Representative Bruce, the minutes of the July 9 & 10, 1990 meeting were approved.

Present August 13, 1990 were:

Members: Representative Mark D. O'Brien, Chairman; Senators Gene Huff and Bill Quinlan; Representatives Jim Bruce, Tom Kerr and Ronny Layman.

Present August 14, 1990 were:

Members: Representative Mark D. O'Brien, Chairman; Senators Gene Huff and Bill Quinlan; Representatives Jim Bruce, Ronny Layman and Tom Kerr.

Guests: Paul P. Borden, Richard Casey, Vicki Burke, Joyce A. Bryan, Kentucky Higher Education Assistance Authority; George Russell, Secretary of State's Office; Carla Arnold, State Board of Elections; Arthur Hatterick, Jr., Personnel Board; Daniel F. Egbers, Department of Personnel; Joe Hutchison, Kentucky Retirement Systems; Dave Nicholas, Board of Psychology; J. Michael Noyse, Roger Nesbitt, Department of Agriculture; Thomas A. Young, Tom Edwards, Lauren Schaaf, Department of Fish and Wildlife Resources; Joe Gray, Court of Justice; Christopher Johnson, Justice Cabinet; Michael Bradley, Ellen Tharpe, Corrections Cabinet; Sandy Pullen, Transportation Cabinet; Shirley A. Mikel, Joanne Jackson, James Melton, Rita Osborne, Hanson Williams, Department of Education; Audrey T. Carr, Department for Adult and Technical; Edward Hatchett, Thomas W. Stout, Wanda S. Harrod, Department of Financial Institutions; David Vest, Gene Glass, Mike Fulkerson, Kentucky State Racing Commission; Judith G. Walden, Department of Housing, Buildings and Construction; Bill Martin, Bruce Miller, Office of State Fire Marshal; Barbara F. White, Robert Hurst, Delano Miller, Sue Howard, Donald Hughes, Sr., Michael Cheek, Gwen Winters, Reginald Finger, Betty Triplett, Ked Fitzpatrick, Barbara Coleman, Joe Anderson, Robert Calhoun, Cindy Schweickart, Mark Yancey, John Gray, Mel Counts, Danise Newton, Eric Friedlander, Staci Searcy, Ralph Von Deran; Cabinet for Human Resources; Paul C. McDonald, Churchill Downs; Sam Crawford, Kentucky Farm Bureau; Don S. Sturgill, HBPA; Robert Houlihan, Jr., Keeneland; John Barnett, SCB; James W. Barton, Kentucky Corn Growners Association; Garland M. Bastin, Kentucky Milk Producers Association; Bill Noel, Kentucky Association Career Colleges and Schools; Julian M. Carroll, Jack R. Medford, Gale Lively, Janet Lively, Louisville Apartment Association; Ellen Bubenhofer, Lexington Apartment Association; A. R. Sullivan, Marilyn Bork, John Lowe, Buddy Marr, Sullivan College.

LRC Staff: Susan Wunderlich, Joe Hood, Gregory Karambellas, Susan Eastman, Donna Pierce, and Peggy Jones.

The Administrative Regulation Review Subcommittee met on August 13 and 14, 1990, and submits this report:

The Subcommittee determined that the following administrative regulations do not comply with statutory authority:

Kentucky Higher Education Assistance Authority: KHEAA Grant Program

11 KAR 5:030 (Student eligibility requirements.) On a motion by Senator Quinlan, the Subcommittee voted to attach a letter of objection. Senator Quinlan had questioned the constitutionality treating students differently by giving a lower maximum dollar amount per student grant for proprietary school students.

Public Protection and Regulation Cabinet: State Racing Commission: Thoroughbred Racing Rules

810 KAR 1:003 (Licensing.)

810 KAR 1:006 (Racing associations.)

These administrative regulations proposed amendments that would restrict associations from excluding persons licensed by the Commission. Representative Kerr questioned the authority of the Commission to preclude associations from excluding any person from a track, including someone licensed by the Commission. He pointed out that the case law in Kentucky was that the common law right of associations to exclude was not restricted by the enactment of KRS Chapter 230. In James v. Churchill Downs, Inc., the court stated that the authority of the Commission was in addition to the authority of associations under the common law; and that the court did not rule that the common law right had been restricted by KRS Chapter 230. Representative Kerr pointed out that, since this decision, the legislature has not seen fit to amend the statute to restrict the right of associations to include. He stated that these administrative regulations specifically recognized the common law of associations to exclude, and that these administrative regulations had been in effect, without change, for a long period. He asked Commission representatives why the Commission suddenly wanted to amend a long-standing administrative regulation to restrict the right of associations to exclude. Don Sturgill spoke in favor of the amendment. He reiterated the statements made by the Commission attorney: KRS Chapter 230 grants "plenary" authority to regulate racing to the Commission; various statutes in KRS Chapter 230 grant exclusive authority for licensure to the Commission and provide that licensure is valid for all associations. The Commission's attorney stated that the "common law" right of exclusion was simply the right to exclude patrons and had entered U.S. case law in a case decided by Justice Holmes in 1915. He added that the court, in James v. Churchill Downs, Inc., ruled that associations retained a common law right only to exclude patrons, but that the ruling did not cover licensees and did not provide that associations had such exclusionary authority over those licensed by a commission authorized to regulate racing. He argued that, since the Commission approved licensure with knowledge of the previous conviction, the associations had no right to overrule the Commission decision. The sole authority granted the Commission to regulate racing and licensure by KRS Chapter 230 would be defeated if associations could overrule Commission decisions. This, in effect, would result in an amendment of existing statute.

Robert Houlihan spoke against the amendments and submitted a brief to the Subcommittee. Mr. Houlihan's statements reflected comments made by Representative Kerr and others who spoke against the amendments. He stated that the amendments proposed by the Commission would result in an amendment of KRS Chapter 230, as interpreted by the courts, and that the Commission as an administrative body did not have such authority. Representative Kerr asked how many who had been convicted of racing-related crimes had been reinstated, and what standards, if any, the Commission had developed and applied in such matters. It appeared that this had not occurred before. Senator Quinlan moved that the administrative regulations exceeded statutory authority under KRS Chapter 13A, KRS Chapter 230, and the Constitution. The motion was seconded and passed. Representative Bruce passed.

The Subcommittee determined that the following administrative regulations, as amended, complied with KRS Chapter 13A:

Department of Agriculture: Referendums

302 KAR 1:070 (Corn Referendum.) This regulation was deferred from the August 13 meeting to the August 14 meeting to allow the agency to consider suggested technical amendments. On August 14, the agency agreed to those technical changes.

Justice Cabinet: Office of the Secretary: Asset Forfeiture

In the initial reviews, it was stated that it was not clear that policies and forms had been incorporated by reference. Agency personnel stated that policies and forms had been incorporated by reference in 500 KAR 9:050 and 500 KAR 9:060, which have been filed as emergency regulations.

500 KAR 9:020 (Agency forfeiture policy.) This administrative regulation was amended to conform to the drafting requirements of KRS 13A.222: deleting "must" and inserting in lieu thereof "shall".

500 KAR 9:040 (Grants.) This administrative regulation was amended to conform to the drafting requirements of KRS 13A.222: deleting "must" and inserting in lieu thereof "shall"; and to make it clear in Section 3 that the "preference" was mandatory by changing "will" to "shall".

Corrections Cabinet: Office of the Secretary

501 KAR 6:030 (Kentucky State Reformatory.) This administrative regulation was amended to conform to the objections raised in the initial reivew relating to the drafting requirements of KRS 13A.222.

Transportation Cabinet: Department of Vehicle Regulation: Division of Motor Carriers

601 KAR 1:029 (Definitions relating to 601 KAR 1:030 through 601 KAR 1:145.) This regulation was amended to conform with the definitions requirements of KRS 13A.222(4)(e). Also, Section 10 was deleted since 601 KAR 1:035 has already expired.

601 KAR 1:160 (Motor carrier vehicle identification.) House Bill 665, cited in the Necessity and Function section, was amended to the correct cite of House Bill 696. Also, the definition of "commercial motor vehicle" was amended to clarify that farm machinery was already exempted by statute.

Department of Education: Office of Local Services: School District Finance

702 KAR 3:200 (Management assistance program.) This regulation was amended to incorporate by reference the forms used by local districts for their "Annual Financial Report".

Office of Instruction: Instructional Services

704 KAR 3:380 (Remediation of basic skills.) Section 6 of this regulation was amended to clarify space requirements per classroom unit.

Public Protection and Regulation Cabinet: Department of Financial Institutions: Administration

808 KAR 1:070 (Application and hearing procedure.) This administrative regulation was amended to make it clear that if a statute required a hearing, a hearing would be held; and, that in cases where a hearing is discretionary with the Commissioner, the Commissioner may require the submission of briefs rather than conduct a hearing.

The following 815 regulations were amended to comply with the drafting requirements of KRS Chapter 13A.

Public Protection and Regulation Cabinet: Department of Housing, Buildings and Construction: Office of State Fire Marshal: Standards of Safety

815 KAR 10:040 (Fire Prevention Code.)

Boilers and Pressure Vessels

815 KAR 15:020 (Administrative procedures; requirements.)

Plumbing

815 KAR 20:010 (Definitions.)

815 KAR 20:071 (Storage and installation of schedule 40, ABS and PVC plastic pipe and fittings.)

815 KAR 20:076 (Installation recommendations for polybutylene (PB) cold water building supply, yard piping and tubing.)

815 KAR 20:120 (Water supply and distribution.)

815 KAR 20:130 (House sewers and storm water piping; methods of installation.)

Electrical Inspectors

815 KAR 35:030 (Kentucky certification of electrical contractors.)

Cabinet for Human Resources: Department for Health Services: State Health Plan

902 KAR 17:020 (State health plan process.) This administrative regulation was amended to comply with objections raised by the initial review, and by interested parties, over the method by which the State Health Plan was developed. The amendment provides for public participation and a more active participation by the Council. Chairman O'Brien pointed out that all parties were in agreement on the amendment, but that the statutes relating to the State Health Plan needed to be amended in order to provide more specifically for the procedure by which the State Health Plan was developed and amended. Upon Chairman O'Brien's suggestion, the Subcommittee agreed to request LRC to forward the issue of amendment of State Health Plan related statutes to the appropriate interim joint committee.

The Subcommittee determined that the following regulations complied with KRS Chapter 13A:

Secretary of State: Certifications

30 KAR 2:010 (Certification of vacancy in

nominations.)

Personnel Board
101 KAR 1:335 (Employee actions.)
101 KAR 1:375 (Employee grievances and complaints.)
101 KAR 1:400 (Promotion.) An objection had been raised to this administrative regulation because of repetition of the language in KRS 18A.0751(4)(f) in Section 1(1). It was pointed out that KRS 18A.0751 specifically required the Board to promulgate an administrative regulation, even though the statute specified the contents of such regulation. On Chairman O'Brien's recommendation, the Subcommittee determined that LRC be requested to forward this issue to the appropriate Interim Joint Committee for legislation to amend KRS Chapter 18A to delete any requirement that the Board promulgate an administrative regulation when KRS Chapter 18A provides a comprehensive scheme governing a subject matter. Such an amendment would conform to the prohibition stated in KRS 13A.120(2)(e),(f). Although this prohibition would govern, administrative body personnel felt they were compelled by other language to promulgate regulations prohibited by KRS Chapter 13A.

Retirement Systems: General Rules
105 KAR 1:040 (Actuarial assumptions and tables.)

General Government Cabinet: Board of Examiners of Psychologists
201 KAR 26:160 (Fee schedule for applications for licensure as a psychologist, certification as a psychologist, certification as a psychologist with autonomous functioning and certification as a psychological associate.)

Tourism Cabinet: Department of Fish and Wildlife Resources: Game
301 KAR 2:110 (Raccoon and opossum; training and shake-out seasons.)

Department of Agriculture: Referendums
302 KAR 1:055 (Milk referendum.)

Justice Cabinet: Office of the Secretary: Asset Forfeiture
500 KAR 9:010 (Definitions.)
500 KAR 9:030 (Reports and audits.)

Transportation Cabinet: Department of Vehicle Regulation: Division of Motor Carriers
601 KAR 1:025 (Transporting hazardous materials; permit.)
Motorcycle Safety
601 KAR 14:010 (Headgear and eye-protective devices.)

Education and Humanities Cabinet: Department of Education: Office of Local Services: General Administration
702 KAR 1:026 (Repeal of 702 KAR 1:025.)
School District Finance
702 KAR 3:211 (Repeal of 702 KAR 3:210.)
Office of Instruction: Instructional Services
704 KAR 3:285 (Programs for the gifted and talented.)
704 KAR 3:305 (Minimum unit requirements for high school graduation.)
704 KAR 3:321 (Repeal of 704 KAR 3:320.)
704 KAR 3:325 (Effective instructional leadership act.)
704 KAR 3:345. Evaluation guidelines.
Kindergartens and Nursery Schools
704 KAR 5:050 (Public school kindergarten programs and accreditation of nonpublic programs.)
Office of Vocational Education: Administration
705 KAR 1:001 (Repeal of existing State Board for Adult, Vocational Education and Vocational Rehabilitation regulations.)

Cabinet for Human Resources: Office of Administrative Services: Vital Statistics
901 KAR 5:050 (Fees for searches, certified copies of certificates.)
901 KAR 5:070 (Certificate of birth amended.)
Department for Health Services: Communicable Diseases
902 KAR 2:140 (Human immunodeficiency virus (HIV) test counseling)
Medical Laboratories
902 KAR 11:010 (Application for licensure; fee.)
Emergency Medical Technicians
902 KAR 13:050 (Training, examination and certification.)
Health Services and Facilities
902 KAR 20:008 (License procedures and fee schedule.)
902 KAR 20:135 (Certificate of need application fee schedule.)
Controlled Substances
902 KAR 55:010 (Licensing of manufacturers and wholesalers.)
Department for Employment Services: Employment Agencies
903 KAR 1:010 (Private employment agencies.)
Unemployment Insurance
903 KAR 5:270 (Maximum weekly benefit rates.)
Department for Social Services: Child Welfare
905 KAR 1:050 (Approval of subsidies.)
Day Care
905 KAR 2:010 (Standards for all child day care facilities.)
Department for Medicaid Services: Medicaid Services
907 KAR 1:005 (Nonduplication of payments.)
907 KAR 1:330 (Hospice services.)
Department for Mental Health and Mental Retardation Services: Substance Abuse
908 KAR 1:020 (Licensing procedures (NATE).)
908 KAR 1:160 (Licensing procedures (DATE).)

The following regulations were deferred at the promulgating agency's request:

General Government Cabinet: Board of Pharmacy
201 KAR 2:074 (Pharmacy services in hospitals.) This administrative regulation was deferred until federal agency personnel can provide explicit guidance on federal requirements relating to the dispensing of drugs in hospitals.

Public Protection and Regulation Cabinet: Department of Financial Institutions: Mortgage Loan Companies and Mortgage Loan Brokers
808 KAR 12:020 (Claims of exemption.) This administrative regulation was deferred until issues raised by the initial review could be reviewed and discussed with Subcommittee staff.

The Subcommittee had no objections to emergency regulations which had been filed.

The Subcommittee adjourned at 11:15 a.m. until September 12, 1990 at 10 a.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.

INTERIM JOINT COMMITTEE ON HEALTH & WELFARE
Meeting of July 18, 1990

The Interim Joint Committee on Health and Welfare met on Wednesday, July 18, 1990, and submits this report:

At the request of the Cabinet for Human Resources, the Committee voted to defer action on 902 KAR 4:030.

The Committee approved the following regulations:

902 KAR 10:021
902 KAR 10:030
902 KAR 10:060
902 KAR 10:121
902 KAR 10:130 & E
902 KAR 13:030 & E
902 KAR 20:026
902 KAR 20:048
902 KAR 20:051
902 KAR 20:086
902 KAR 45:110 & E
902 KAR 45:120 & E
904 KAR 3:020
908 KAR 3:120

INTERIM JOINT COMMITTEE ON BANKING & INSURANCE
Meeting of July 19, 1990

The Interim Joint Committee on Banking and Insurance met on July 19, 1990 and submits this report:

The Committee lacked a quorum so it took no action on 808 KAR 1:110 and 808 KAR 1:120.

The Committee adjourned until August 16, 1990.

CUMULATIVE SUPPLEMENT

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

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907 KAR 1:004E	2316	4-9-90
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  General; 401 KAR 35:010
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  Financial requirements, closure; 401 KAR 34:090
  Financial requirements, postclosure; 401 KAR 34:100
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