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MEETING NOTICE: The next meeting of the Administrative Regulation Review Subcommitte is **tentatively** scheduled on December 4-5, 1990. See **tentative** agenda on page 1951-1953 in this Administrative Register.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
TENTATIVE AGENDA - December 4, 1990
(Room 110, Capitol Annex @ 2 p.m.)

TOURISM CABINET
Department of Fish and Wildlife Resources

Fish

301 KAR 1:015. Boats and outboard motors; restrictions.
301 KAR 1:056. Sport fishing trotlines, jugging and setlines. (Repeals 301 KAR 1:057)
301 KAR 1:075. Gigging, grabbing or snagging, tickling and noodling.
301 KAR 1:122. Importation, possession; live fish.
301 KAR 1:150. Waters open to commercial fishing.
301 KAR 1:200. Seasons and limits for angling.

Game

301 KAR 2:220 & E. Hunting seasons for migratory birds.

JUSTICE CABINET

Breath Analysis Operators

500 KAR 8:010. Certification of operators.

CORRECTIONS CABINET

Office of the Secretary

501 KAR 6:020. Corrections policies and procedures.
501 KAR 6:030. Kentucky State Reformatory.
501 KAR 6:070 & E. Kentucky Correctional Institution for Women.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of School Administration and Finance

School District Finance

702 KAR 3:220. Guidelines for waiver of school fees. (Amended After Hearing)

Office of Education for Exceptional Children

Exceptional and Handicapped Program

707 KAR 1:051. Exceptional children's programs.
707 KAR 1:140. Qualifications for approved classroom assignment of teachers of exceptional children. (Amended After Hearing)

WORKFORCE DEVELOPEMENT CABINET
Department for Adult and Technical Education

Management of the Kentucky Tech System

780 KAR 2:045. Fees for livework projects.

LABOR CABINET

Occupational Safety and Health

803 KAR 2:303. Adoption of 29 CFR Part 1910.21 - .32.
803 KAR 2:305. Adoption of 29 CFR Part 1910.66 - 1910.70.
803 KAR 2:306. Adoption of 29 CFR Part 1910.94 - 1910.100.
803 KAR 2:307. Adoption of 29 CFR Part 1910.101 - .120.
803 KAR 2:313. Adoption of 29 CFR Part 1910.176 - 1910.190.
803 KAR 2:316. Adoption of 29 CFR Part 1910.251 - .257.
803 KAR 2:317. Adoption of 29 CFR Part 1910.260-.275.
803 KAR 2:318. Adoption of 29 CFR Part 1910.301 - .399.
803 KAR 2:320. Adoption of 29 CFR Part 1910.1000 - 1910.1500.
803 KAR 2:413. Adoption of 29 CFR Part 1926.550 - .556.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Alcoholic Beverage Control

Fair Trade, Pricing and Sales

804 KAR 3:091. Repeal of 804 KAR 3:090, 804 KAR 5:010 and 804 KAR 7:040.

Licensing

804 KAR 4:015. Interlocking interest between licensees prohibited.
804 KAR 4:250. Special temporary licenses.

Conduct of Business; Employees

804 KAR 5:040. Minors; definitions.

Department of Housing, Buildings and Construction

Hazardous Materials

815 KAR 30:060. Certification of underground petroleum storage tank installers.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
TENTATIVE AGENDA - December 5, 1990
(Room 327, Capitol @ 10 a.m.)

GENERAL GOVERNMENT CABINET

Board of Pharmacy

201 KAR 2:074. Pharmacy services in hospitals. (Amended After Hearing) (Deferred since April)

Board of Dentistry

201 KAR 8:140. Continuing education compliance.

201 KAR 8:285. Hygienists education points for license renewal.

Board of Medical Licensure

201 KAR 9:305. Recertification of athletic trainers. (Deferred from November meeting)

Board of Examiners and Registration of Architects

201 KAR 19:005. Amendments to rules and regulations.

201 KAR 19:025. Application for examination.

201 KAR 19:030. Examination; general provisions.

201 KAR 19:035. Qualifications for examination.

201 KAR 19:040. Types of examinations required.

201 KAR 19:050. Re-examination; reconsideration.

201 KAR 19:056. To repeal 201 KAR 19:055 and 201 KAR 19:075.

201 KAR 19:060. Reciprocity; registration without examination.

201 KAR 19:070. Duplicate certificates.

201 KAR 19:085. Fees.

201 KAR 19:095. Professional practice standards; violations, penalties.

201 KAR 19:100. Individual seals; office titles.

201 KAR 19:105. Plans and specifications standards.

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

Underground Storage Tanks

401 KAR 42:011. Definitions of terms used in 401 KAR Chapter 42, program scope, and interim prohibition. (Repeals 401 KAR 42:010) (Deferred from November)

401 KAR 42:020. Performance standards for new UST systems. (Amended After Hearing)

401 KAR 42:030. General operating requirements. (Deferred from November)

401 KAR 42:040. Release detection. (Deferred from November)

401 KAR 42:050. Release reporting, investigation, and confirmation. (Deferred from November)

401 KAR 42:060. Release response and corrective action for UST systems containing petroleum or hazardous substances. (Deferred from November)

401 KAR 42:070. Out-of-service UST systems and closure. (Amended After Hearing)

401 KAR 42:090. Financial responsibility. (Deferred from November)

Division for Air Quality

New Source Standards

401 KAR 59:023. New medical waste or hazardous waste incinerators. (Amended After Hearing) (Deferred from October and November Meetings)

Existing Source Standards

401 KAR 61:013. Existing medical waste and hazardous waste incinerators. (Amended After Hearing) (Deferred from October and November Meetings)

TRANSPORTATION CABINET

Property Acquisition and Uniform Relocation

600 KAR 3:010. Relocation assistance payments of the Transportation Cabinet.

Department of Highways

Traffic

603 KAR 5:025. Fully controlled access highways.

603 KAR 5:070. Motor vehicle dimension limits.

603 KAR 5:071. Bus dimension limits.

603 KAR 5:075. Overweight and overdimensional permits.

603 KAR 5:112 & E. Annual permits for moving utility poles or pipes.

CABINET FOR HUMAN RESOURCES
Department for Health Services

State Health Plan

902 KAR 17:010 & E. State health plan.

Health Services and Facilities

902 KAR 20:026. Operation and services; skilled nursing facilities. (Amended After Hearing)

902 KAR 20:048. Operation and services; nursing homes. (Deferred from November)

902 KAR 20:051. Operation and services; intermediate care. (Deferred from November)

902 KAR 20:086. Operation and services; intermediate care facilities for the mentally retarded and developmentally disabled. (Deferred from November)

902 KAR 20:116 & E. Advanced life support emergency care and ambulance transportation.

902 KAR 20:300 & E. Operation and services; nursing facilities.

902 KAR 20:310 & E. Facility specifications; nursing facility.

Department for Social Insurance

Public Assistance
904 KAR 2:110 & E. Refugee assistance.
Food Stamp Program
904 KAR 3:035 & E. Certification process.

Department for Social Services

Child Welfare
905 KAR 1:300. Standards for child caring facilities.
905 KAR 1:310. Standards for child placing agencies. (Repeals 905 KAR 1:005)
Community Action Agencies
905 KAR 6:070. Program state plan for CSBG.(Repeals 905 KAR 6:050)

Department for Medicaid Services

Medicaid Services
907 KAR 1:019 & E. Pharmacy services.
907 KAR 1:020 & E. Payment for drugs.
907 KAR 1:022 & E. Nursing facility and intermediate care facility for the mentally retarded services.(Repeals 907 KAR 1:024)
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907 KAR 1:060. Medical transportation.
907 KAR 1:061 & E. Payments for medical transportation.
907 KAR 1:095. Payments for nurse-midwife services.
907 KAR 1:102 & E. Advanced registered nurse practitioner services.
907 KAR 1:104 & E. Payments for advanced registered nurse practitioner services.

ADMINISTRATIVE REGULATION REVIEW PROCEDURE

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

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

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

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

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

Review Procedure
If a proposed administrative regulation is amended as a result of the public hearing, the amended version shall be published in the next Administrative Register; and the administrative regulation shall be reviewed by the Administrative Regulation Review Subcommittee at its next meeting following publication. If a proposed administrative regulation is not amended as a result of the hearing or if the hearing is cancelled, the administrative regulation shall be reviewed by the Administrative Regulation Review Subcommittee at its next meeting. After review by the Subcommittee, the administrative regulation shall be referred by the Legislative Research Commission to an appropriate jurisdictional committee for a second review. The administrative regulation shall be considered as adopted and in effect as of adjournment on the day the appropriate jurisdictional committee meets or thirty (30) days after being referred by LRC, whichever occurs first.

EMERGENCY ADMINISTRATIVE REGULATIONS NOW IN EFFECT

(NOTE: Emergency regulations expire 120 days from publication or upon replacement, repeal or withdrawal.)

STATEMENT OF EMERGENCY
201 KAR 20:390E

This emergency regulation implements the Nursing Incentive Scholarship Fund which was created by KRS 314.025-314.027 in Acts 1990, Chapter 249 (House Bill 107). In order to begin publicizing the scholarship and accepting and processing applications so that scholarships can be granted in the summer of 1991 for the 1991-1992 school year, it is necessary to promulgate this emergency administrative regulation. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on October 22, 1990.

WALLACE G. WILKINSON, Governor
ANGELA J. LASLEY, President

GENERAL GOVERNMENT CABINET
Kentucky Board of Nursing

201 KAR 20:390E. Nursing incentive scholarship fund.

RELATES TO: KRS 314.025, 314.026, 314.027
STATUTORY AUTHORITY: KRS 314.131
EFFECTIVE: October 29, 1990
NECESSITY AND FUNCTION: The nursing incentive scholarship fund program was created by the General Assembly. This regulation implements the administration of the program.

Section 1. Definitions. (1) "Academic year" means, for a registered nursing program, a minimum of two (2) semesters; and for a practical nursing program, the completion of the required program.
(2) "Health facility" as used in this regulation shall have the same meaning as "health facility" as defined at KRS 216B.015(12).
(3) "Resident" as used in this regulation shall be determined pursuant to 13 KAR 2:040.
(4) "Rural area" means a county with less than 50,000 population or a county which is not part of a federally designated metropolitan statistical area.
(5) "Board" means the Kentucky Board of Nursing.
(6) "Committee" means the Nursing Incentive Scholarship Fund Committee.

Section 2. Application. (1) To be eligible for a nursing incentive scholarship, an applicant must be a Kentucky resident, must have applied for admission to an educational institution with an approved program of nursing in Kentucky, must have declared nursing as the major course of study and must have obtained a Kentucky health facility as a sponsor.
(2) An applicant shall complete an application, on a form provided by the board. The application must be received by the board between January 1 and May 1.
(3) The applicant shall send or cause to be sent to the board by May 1 an official high school transcript or equivalent (GED) and official transcripts showing postsecondary work completed.
(4) The applicant shall attach to the application a copy of the Student Aid Report from either the Kentucky Financial Aid Form (KFAF) or the Application for Student Aid (AFSA) for the current year.

Section 3. The Committee. (1) The committee shall be comprised of six (6) members. The board shall appoint one (1) registered nurse (RN) and one (1) licensed practical nurse (LPN) who are licensed to practice in the Commonwealth. The Kentucky Hospital Association, the Kentucky Primary Care Association and the Kentucky Association of Health Care Facilities shall appoint one (1) representative each. The board shall also appoint one (1) member of the board to the committee who shall act as chair of the committee.
(2) Members of the committee shall serve for one (1) year and may be reappointed.
(3) The committee shall meet at least annually by July 15 and more often if necessary to decide on scholarships for the upcoming academic year.
(4) The committee shall serve without compensation but may be reimbursed for actual and necessary expenses related to serving on the committee.

Section 4. Criteria for Awards. (1) The committee shall evaluate qualified applicants, giving preference to low-income, unemployed residents and to LPNs licensed in Kentucky. The committee shall also give preference to those applicants who have agreements with a sponsoring hospital, skilled nursing facility, immediate care facility or primary care center to work in a rural area of the state.
(2) The committee may also consider the following criteria in evaluating applicants:
(a) Prior health care work experience or education;
(b) Previous academic achievement as indicated by transcripts;
(c) Current acceptance as a declared nursing major in an educational institution with an approved program of nursing;
(d) Current admission or enrollment in an approved program of nursing.

Section 5. Amount of Award. (1) The committee shall be notified as to the current fund balance prior to making awards.
(2) The committee shall defer awarding a portion of the amount collected in odd-numbered fiscal years to the following fiscal year. The amount of the deferred portion shall be determined as follows: add the number of licensed RNs renewing as of the current year to the number of licensed LPNs who renewed in the previous year. Divide by two (2). Multiply by five (5). Subtract that figure from the amount collected, less administrative costs.
(3) The committee shall first make awards to those recipients who received awards in the previous year and remain eligible to receive awards pursuant to Section 7 of this regulation in the current year.
(4) The committee shall divide the remaining funds among the remaining applicants based on

the criteria considered in Section 4 of this regulation. The committee shall earmark twenty-five (25) percent of the funds for awards to LPNs seeking RN licensure. However, if insufficient applications are received from LPNs, those unexpended earmarked funds shall be used for other applicants.

(5) The maximum award granted each year shall be the highest tuition charged for an academic year for a full-time student by a program of nursing in a public institution in Kentucky by a comparable program. By May 1 of each year, the committee shall determine the highest yearly tuition rate charged by a practical nursing program in a public institution in Kentucky, the highest yearly tuition rate charged by an associate degree registered nursing program in a public institution in Kentucky, and the highest yearly tuition rate charged by a prelicensure baccalaureate degree registered nursing program in a public institution in Kentucky. In making awards, the committee shall grant the maximum award until all funds for that year have been expended, except for students who will not be enrolled for an entire academic year. In those cases, the award shall be one-half (1/2) the maximum.

Section 6. Procedure for Disbursement of Awards. (1) Prior to actual disbursement of any funds, the educational institution must certify enrollment by the recipient.

(2) Disbursement of funds will be made directly to the school by the board.

(3) All recipients of awards who are enrolled in registered nursing programs must take a minimum of eight (8) credit hours per semester.

Section 7. Continuing Eligibility Criteria. (1) A registered nursing student recipient of a nursing incentive scholarship shall be eligible to continue to receive an award provided successful progression through the program is maintained as evidenced by the following:

(a) The completion of a minimum of eight (8) credit hours per semester;

(b) A cumulative grade point average of 2.0 on a 4.0 scale; and

(c) Verification of successful academic progression from the academic advisor of record on a form supplied by the board.

(2) The amount of the award shall be determined pursuant to Section 5(5) of this regulation.

(3) In order to be eligible to receive a continuing award, the recipient must provide the board by July 1 with the following: a request for continuation, an official transcript for the preceding academic year and a Student Aid Report for the current year.

(4) Award recipients in practical nursing programs are not eligible for continued awards while enrolled in such programs.

Section 8. Disbursement Contract. Prior to disbursement of funds for a particular year, the recipient shall sign a written contract and a promissory note in a form prescribed by the board.

Section 9. Miscellaneous. (1) Verification of employment with the health facility shall be submitted by the sponsor to the board when the recipient's employment commitment begins and when it is completed. Any termination prior to completion shall be reported to the board within thirty (30) days.

(2) If a recipient fails to complete the nursing program in which he is enrolled within the time specified by the program of nursing or if he fails to complete the required employment with the sponsor as specified in the contract, he shall immediately become liable to the board to pay the sum of all scholarships received and accrued interest thereon, unless the board, in its sole discretion, grants a deferment for cause.

(3) Persons liable for repayment of scholarships under this section shall be liable for interest accruing on each contract from the respective dates on which the scholarships were disbursed.

(4) Recipients shall notify the board of any change of name or address.

(5) Written notification of demand for repayment shall be sent by the board to the scholarship recipient's last known address and shall be effective upon mailing. The board may agree, in its sole discretion, to accept repayment in installments in accordance with a schedule established by the board. Payments shall first be applied to interest and then to principal on the earliest unpaid contracts.

ANGELA J. LASLEY, President
APPROVED BY AGENCY: October 19, 1990
FILED WITH LRC: October 29, 1990 at 3 p.m.

STATEMENT OF EMERGENCY
301 KAR 2:220E

Migratory bird hunting season frameworks are established annually by the U.S. Fish and Wildlife Service. Under federal law, states which wish to establish migratory bird hunting seasons must do so within the federal frameworks. Development of the federal regulations involves consideration of harvest and population status data, coordination with state wildlife agencies, and public involvement. Consequently, federal migratory bird hunting regulations are promulgated less than six weeks before the opening dates of the hunting season. An ordinary administrative regulation will not suffice because of insufficient time to accomplish the required state procedures during the short period between promulgation of federal hunting regulations and the opening of the hunting season will preclude timely effectiveness of the administrative regulation. The emergency regulation will be replaced by an ordinary administrative regulation.

WALLACE G. WILKINSON, Governor
DON R. McCORMICK, Commissioner

TOURISM CABINET
Department of Fish and Wildlife Resources

301 KAR 2:220E. Hunting seasons for migratory birds.

RELATES TO: KRS 150.010, 150.015, 150.025, 150.170, 150.175, 150.235, 150.240, 150.305, 150.330, 150.340, 150.360, 150.600, 150.603, 150.630, 150.990
STATUTORY AUTHORITY: KRS 13A.350, 150.025
EFFECTIVE: October 18, 1990
NECESSITY AND FUNCTION: This regulation

pertains to the seasons and limits for the taking of specified migratory birds, to the associated permitting and harvest reporting requirements, and to restrictions in the use of blinds and pits. It is necessary for the continued protection and conservation of the migratory birds listed herein, and to insure a permanent and continued supply of the wildlife resource. The framework of this regulation falls within the seasons and bag limits prescribed by the U.S. Fish and Wildlife Service. The function of this regulation is to provide for the prudent taking of migratory birds within reasonable limits based upon an adequate supply. This amendment is necessary to change season dates and hunting rules.

Section 1. Definitions. (1) "Blind" means any form of concealing enclosure, including a pit or an anchored, stationary, or drifting boat from which hunting occurs.

(2) "Permanent blind" means any blind which is in place more than twenty-four (24) hours.

(3) "Commercial waterfowl hunting area" means any area of land or water used in whole or in part for the taking of migratory waterfowl where a monetary charge is made for hunting.

(4) "Noncommercial waterfowl hunting area" means any area used in whole or in part for the taking of migratory waterfowl where no monetary charge is made.

(5) "Waterfowl" means all species of ducks, coots, mergansers and geese.

Section 2. Seasons for Gun and Archery. (1) Sora rails, Virginia rails, common moorhens, and purple gallinules: November 22 [23] through January 20.

(2) Ducks, coots and mergansers: November 22 [23] through November 25 [26] and December 12 [13] through January 6 [7].

(3) Geese.

(a) Eastern Zone: November 22 through November 25 and December 1 through January 31 [November 23 through January 31], east of a boundary beginning at the Kentucky-Tennessee border at Fulton, Kentucky, extending north along the Purchase Parkway to I-24, East on I-24 to U.S. 641, north on U.S. 641 to U.S. 60, northeast on U.S. 60 to U.S. 41 and then north on U.S. 41 to the Kentucky-Indiana border.

(b) Western zone. This zone consists of the area to the west of the boundary described in paragraph (a) of this subsection. For the purpose of controlling the goose harvest, the Western Zone is subdivided into the Ballard Reporting Area and associated counties and the Henderson-Union Reporting Area and associated counties. Seasons within the Western Zone are specified as follows:

1. Canada goose season: November 22 through November 25 and December 1 through January 31 [December 2 through January 31], unless harvest quotas are met as described below.

a. Ballard reporting area. This reporting area lies within the following boundary: starting at the northwest city limits of Wickliffe in Ballard County to the middle of the Mississippi River, and thence north along the Mississippi to the low water mark of the Ohio River along the Illinois shore to the Ballard-McCracken County line; thence along the county line south to state road 358; thence south along state road 358 to its junction with U.S. Highway 60 at LaCenter; thence following U.S. 60 southwest to the northeast city limits of Wickliffe. Should it be determined that the quota of 28,000 [20,000] Canada geese will be filled prior to January 31, the goose hunting season shall close in the Ballard Reporting Area. Notice shall be given a minimum of twenty-four (24) hours in advance of the time and date of closing.

b. Counties associated with the Ballard reporting area. The counties associated with the Ballard reporting area are [,] those portions of Ballard (excluding Ballard Reporting Area), McCracken, Graves, Carlisle, Hickman, Fulton and Marshall counties in the Western Zone, shall remain open for seven (7) days after the closure of the Ballard reporting area or until January 31, whichever occurs first.

c. Henderson-Union reporting area. This reporting area includes those portions of Henderson and Union Counties within the Western Zone. Should it be determined that the quota of 8,200 [6,000] Canada geese will be filled prior to January 31, the goose hunting season shall close in the Henderson-Union reporting area. Notice shall be given a minimum of twenty-four (24) hours in advance of the time and date of closing.

d. Counties associated with the Henderson-Union reporting area. The counties associated with the Henderson-Union reporting area are [,] those portions of Lyon, Crittenden and Livingston counties in the Western Zone shall remain open for seven (7) days after the closure of the Henderson-Union reporting area or until January 31, whichever occurs first.

2. Season for goose species other than Canada geese (snow and blue geese, white-fronted geese, and brant): November 22 through November 25 and December 1 [23] through January 31, or whenever the Canada goose season closes, whichever occurs first.

Section 3. Limits for Gun and Archery. (1) Ducks. The daily bag limit is three (3) and shall include no more than two (2) mallards (no more than one (1) hen mallard or one (1) black duck) [of which shall be a female), and one (1) black duck], two (2) wood ducks, one (1) redhead, and one (1) pintail of either sex. No canvasbacks shall be taken. The possession limit is double the daily bag.

(2) Coots. The daily bag limit is fifteen (15) and the possession limit is thirty (30).

(3) Mergansers. The daily bag limit is five (5) of which no more than one (1) shall be a hooded merganser. Possession limit is double the daily bag limit.

(4) Geese.

(a) The bag limit is seven (7) [five (5)] with no more than three (3) Canada geese and two (2) white-fronted geese in the western zone or one (1) Canada goose and two (2) white-fronted geese in the eastern zone [two (2) Canada and two (2) white-fronted geese. During January in the Western Zone, the bag limit is five (5) with no more than three (3) Canada and two (2) white-fronted geese].

(b) The possession limit is double the daily bag limit.

(5) Sora and Virginia Rails. The bag and possession limits are twenty-five (25) singly or in the aggregate.

(6) Common Moorhens and Purple Gallinules. The bag and possession limits are fifteen (15) and thirty (30), respectively, singly or in the aggregate of the two (2) species.

Section 4. Shooting Hours. One-half (1/2) hour before sunrise to sunset for all species listed in this regulation except as specified in Section 8 of this regulation. Shooting hours for waterfowl in the Ballard reporting area are one-half (1/2) hour before sunrise to sunset November 22 through November 25 and January 27 through January 31 except hunting shall end at 3 p.m. daily from December 1 through January 26. [, and from one-half (1/2) hour before sunrise to 3 p.m. for waterfowl during the Canada goose season in the Ballard Reporting Area.]

Section 5. Shotshell Restrictions. The following restrictions apply to species listed in this regulation. Lead shot is prohibited for the taking of ducks, geese, coots and mergansers as listed in 301 KAR 3:080 and 301 KAR 2:044E. [Shot Size Restrictions.] No lead shot larger than BB or steel shot larger than F shall be in possession while hunting the species listed in this regulation.

Section 6. Falconry Season. October 22 through January 31[, except the season for Canada geese in Fulton County shall not open until October 26]. All legal species listed in this regulation may be taken by falconry.

(1) Falconry limits. The bag and possession limits are three (3) and six (6), respectively, of any legal species listed in this regulation, singly or in the aggregate.

(2) Hunting hours for falconry. The hunting hours shall conform with the shooting hours stated in Sections 4 and 8 of this regulation.

Section 7. Wildlife Management Area Blind Regulations. The following restrictions apply to all wildlife management areas except those excluded in Section 8 of this regulation.

(1) Permanent blinds are not permitted. Decoys and temporary blinds shall be removed at the end of each hunting day.

(2) No blind shall be established less than 200 yards from any other blind or waterfowl refuge areas.

(3) No more than four (4) persons shall occupy a single blind at any one time.

(4) Designated recreation areas and access points are closed to hunting of all species listed in this regulation.

Section 8. Exceptions for Specified Wildlife Management Areas and Counties. Other sections or regulations apply unless specified below. Pit and blind restrictions described in this section and Section 11 of this regulation shall not apply to periods of the falconry season as described in Section 6 of this regulation that do not coincide with waterfowl gun hunting seasons.

(1) Ballard Wildlife Management Area, except the Miller Tract, located in Ballard County.

(a) Species, seasons and bag limits [and seasons].

1. Geese: December 4 [12] through January 31 or until the Ballard Reporting Area quota is reached.

2. Ducks, coots and mergansers: December 12 [13] through January 6 [7].

3. Daily bag limits.

a. Canada geese. The daily bag limit on Ballard Wildlife Management Area is two (2) per day.

b. Ducks, coots and mergansers. Same as state bag limits.

4. [3.] No hunting is permitted on Sundays or Mondays [during December, on Sundays during January] or on Christmas and New Year's Day.

5. [4.] No more than three (3) persons shall occupy a single blind at the same time.

(b) General rules. Waterfowl hunters shall have no more than ten (10) shells in their possession. Any hunter under the age of eighteen (18) years shall be accompanied by an adult. Any person whose transportation to and from blinds is furnished by the department shall have his gun encased. Hunting shall be by advanced application or as otherwise authorized.

(c) Shooting hours: one-half (1/2) hour before sunrise to 12 noon.

(2) Swan Lake Wildlife Management Area located in Ballard County. The Upper Blenderman Tract, located to the north of Holloway Landing Road and marked by signs, is open to hunting of all legal species listed in this regulation.

(3) Paintsville Lake Wildlife Management Area in Johnson and Morgan counties and Dewey Lake wildlife Management Area in Floyd County are open to hunting of all legal species listed in this regulation.

(4) [(3)] Land Between the Lakes Wildlife Management Area, located in Lyon and Trigg Counties.

(a) Closed areas. Long Creek Pond, the eastern one-third (1/3) of Smith Bay, and the eastern two-thirds (2/3) of Duncan Bay are closed to all activity November 1 through March 15 as indicated by signs and buoys. The Environmental Education Center and Energy Lake are closed to hunting of all species listed in this regulation. [Smith Bay, Energy Lake, and Long Creek Pond as indicated by signs are closed to hunting. The eastern two-thirds (2/3) of Duncan Bay on Kentucky Lake is closed to all activity November 1 through March 15, as indicated by signs and buoys. The Environmental Education Center is closed to hunting of all species listed in this regulation.]

(b) LBL permit. An annual LBL hunting permit is required for hunting of all legal species listed in this regulation on all shoreline areas along Kentucky and Barkley Lakes from the water's edge to twenty-five (25) yards above elevation 359' and inland areas. Waterfowl hunting from shoreline areas along Lake Barkley is allowed according to subsection (4) of this section. No hunting of any species listed in this regulation is permitted on inland areas during quota gun deer hunt days as listed in 301 KAR 2:111. Permanent blinds are not permitted on inland areas nor along the Kentucky Lake shoreline area. Decoys and temporary blinds shall be removed at the end of each hunting day.

(5) [(4)] Lake Barkley Wildlife Management Area located in Trigg, Lyon, and Livingston Counties.

(a) Closed areas. Refuge areas shall be closed to all hunting, fishing, boating and molesting of all species listed in this regulation during the dates designated in this subsection and on signs posted along the boundaries. Refuges and closing dates are as follows: November 1 through February 15 within an area including a row of islands on the west side of the main channel as marked by buoys and signs between river mile 51 (Hayes Landing Light) and river mile 57.3 (Crooked Creek Light), excluding Taylor and Jake Fork Bays as marked by buoys and signs. Within the refuge area, that area west of a line from

the north point of the mouth of Fulton Bay to the south point of the mouth of Honker Bay will remain closed until March 15 as marked by buoys and signs. Boating is allowed but hunting is prohibited within 200 yards of the area surrounded by a levee and located between river mile 68.4 and river mile 70.4 during the period October 15 through March 15.

(b) Blinds. Permanent blinds shall remain within ten (10) yards of the assigned numbered blind marker within the two (2) areas described as follows:

1. Beginning at the mouth of Donaldson Creek and proceeding south along the east side of the old Cumberland River channel as marked by buoys, to a point due west of the boat ramp at Linton, then east to the Linton boat ramp, then north along the east shore of Barkley Lake to the mouth of Donaldson Creek;

2. Beginning at the Pryor's Creek Light extending south along the western shore of Barkley Lake to the boat ramp at the end of Land Between the Lakes Road 204 thence to the west side of the Cumberland River Channel, marked with buoys, to river mile 73.5, thence north along the west side of the Cumberland River channel, marked with buoys, to the Pryor Creek Light. All other blinds within this described area shall be temporary.

(6) [(5)] Sloughs Wildlife Management Area located in Henderson and Union Counties.

(a) Grassy Pond-Powell's Lake Unit. Hunting is permitted only from permanent blinds constructed by the department. Hunters shall remove all personal property from blinds or the vicinity of blinds daily.

(b) Jenny Hole-Highland Creek Unit. Hunting shall be allowed from permanent blinds constructed by the department and at any other above ground site provided there is a minimum of 200 yards between hunters or hunting parties. Hunters shall remove all personal property from blinds or the vicinity of blinds daily.

(c) Shooting hours: one-half (1/2) hour before sunrise to 2 p.m.

(d) When the Ohio River reaches a level that requires boat access to the units, hunting shall be allowed from boats spaced 200 yards apart, without regard to the department blinds.

(e) Sauerheber Unit. On the Crenshaw and Duncan Tracts - waterfowl hunting shall be allowed only on Thursdays through Sundays and from permanent blinds constructed by the department. Use of the constructed blinds shall be by drawing unless the person(s) drawn do not occupy the blind by the opening of legal shooting hours. The remainder of the Sauerheber Unit, including the Wood Tract, located between mile marker 4 and 6 on state road 268 and bounded by the Ohio River on the north and Tram Road on the east is closed to all hunting, fishing, boating and trespassing between October 15 and March 15.

(f) Waterfowl hunting only shall be allowed on the Crenshaw and Duncan II tracts during the waterfowl season. The Crenshaw and Duncan II tracts shall be closed to all other hunting from October 15 through March 15.

(7) [(6)] Ohio River Waterfowl Refuge located in Livingston County shall be closed to all hunting from October 15 through March 15. This area includes the Kentucky portion of the Ohio River from Smithland Lock and Dam upstream to a power line crossing the river at approximately river mile 911.5 and including Stewart Island.

(8) [(7)] Hunting of all species listed in this regulation is not permitted on the following areas:

(a) Ohio River in the vicinity of the Ballard Wildlife Management Area located in Ballard County, from a point fifty (50) yards upstream from Dam 53, downstream to a point fifty (50) yards below the downstream boundary of the Ballard Wildlife Management Area.

(b) The portion of Grayson Wildlife Management Area located in Carter and Elliott counties: the Camp Webb Refuge Area, the area north of Rosedale Point, Deer Creek Fork west of 1496, and within fifty (50) yards of the state park shoreline. All other portions are open. [All portions of Grayson Lake Wildlife Management Area located in Carter and Elliott Counties, except the following:]

[1. That portion west of route 1496 and east of the boundary delineated by the following: Bruin Creek to the Bruin Creek Fork of Grayson Lake, the Bruin Creek Fork, the mainstem of Grayson Lake north of the Bruin Creek Fork;]

[2. Grayson Lake north of Rosedale Point;]

[3. Grayson Lake within fifty (50) yards of the state park shoreline.]

(c) Beaver Creek Wildlife Management Area located in Pulaski and McCreary Counties.

(d) Cane Creek Wildlife Management Area located in Laurel County.

(e) Robinson Forest Wildlife Management Area located in Breathitt, Perry and Knott Counties.

(f) Redbird Wildlife Management Area located in Leslie and Clay Counties.

(g) Mill Creek Wildlife Management Area located in Jackson County.

(h) Beech Creek Wildlife Management Area located in Clay County.

(9) [(8)] Bath, Rowan, Menifee and Morgan Counties, including Cave Run Lake, are closed to goose hunting. Breech and muzzle-loading shotguns may be used for duck hunting along the shore line portion of Cave Run Lake bordering the Pioneer Weapons Wildlife Management Area.

(10) [(9)] Ohio County south of Rough River, Muhlenburg County, except for the portion south of U.S. Highway 62 and west of State Route 181, Butler County west of State Route 79, Hopkins County north of State Route 70, south of U.S. Highway 41A and east of State Route 614 and State Route 109, south of the Western Kentucky Parkway, Christian County north of State Route 80, Bell County south of Route 119 and east of Route 25E, Pulaski and McCreary Counties east of U.S. Highway 27 and Laurel, Clay, Whitley, Perry, Knott and Breathitt Counties are closed to goose hunting. In addition all designated goose refuge lakes within the western Kentucky coalfields are closed to all waterfowl hunting.

(11) [(10)] Yellowbank Wildlife Management Area in Breckinridge County. A twenty-five (25) acre wetland designated by signs and painted boundary markers is closed to the public from October 15 through March 15.

(12) Lake Cumberland, Pulaski County.

(a) Wesley Bend, the area bounded to the north, west and south by Fishing Creek and to the east by Beech Grove Road and Fishing Creek Road is closed to the public from October 15 through March 15.

(b) Yellowhole, the area bounded to the east and north by Fishing Creek to the west by Fishing Creek Road and the south by Hickory Nut Road is closed to the public from October 15 through March 15.

(13) [(11)] Blind restrictions for Barkley Lake, Barren Lake, Green River Lake, Nolin River Lake, Rough River Lake, Buckhorn Lake and Taylorsville Lake Wildlife Management Areas.

(a) Permanent blinds shall be registered on a permit issued by the U.S. Army Corps of Engineers. Applicants may designate one (1) other person as a partner for registration. No more than two (2) nontransferable permits shall be issued for each permanent blind. Only one (1) permit shall be issued per hunter per area. Permittees who have not constructed a blind at the designated location by November 20 shall forfeit their permit.

(b) Blinds not occupied by permittees by the opening of shooting hours of any day shall be available for use by other hunters on a first come - first served basis for the remainder of that day.

(c) Permittees shall not lock blinds so as to prevent use by other hunters in the absence of the permittee.

(d) Permanent blinds shall be removed within thirty (30) days of the close of waterfowl season unless extension of that period is approved.

(e) Permittees shall be selected by drawing at Barkley Lake, Barren Lake, Green River Lake, and Taylorsville Lake Wildlife Management Areas. Applicants for blind permits shall present a current Kentucky hunting license to the registration clerk at the time of the drawing. Sites which become available by forfeiture shall be assigned to another applicant according to the following procedure: five (5) additional names shall be drawn at each area (or the number of remaining names if less than five (5) are present) and any forfeited blinds shall be assigned to those people in the order they were drawn.

(14) [(12)] White City Wildlife Management Area located in Hopkins County. Waterfowl shooting hours are from one-half (1/2) hour before sunrise to 2 p.m.

(15) [(13)] Taylorsville Lake Wildlife Management Area, located in Anderson and Spencer Counties. That portion east of Van Buren Boat Ramp as marked by buoys and signs is closed to all hunting, fishing, boating, and trespassing during the period from November 24 through March 1.

(16) [(14)] Fulton County shall remain open to Canada goose hunting through February 4 [9], unless closed prior to this date under the provisions of Section 2 of this regulation.

Section 9. Ballard and Henderson-Union Reporting Area Waterfowl Hunting Permit Requirements. It is unlawful for any person to hunt waterfowl within the Ballard or Henderson-Union Reporting Areas without first obtaining the appropriate waterfowl hunting permit or waterfowl harvest register forms as specified in subsections (1), (2) and (3) of this section.

(1) Commercial waterfowl hunting areas.

(a) A commercial waterfowl hunting area permit issued by the department shall be obtained by any person operating a commercial waterfowl hunting area. An annual fee shall be charged for each commercial waterfowl hunting area permit. These permits shall expire at the end of waterfowl hunting season.

(b) Persons operating more than one (1) commercial waterfowl hunting area shall obtain a permit for each individual area. A land holding divided by a public road may be operated as a commercial waterfowl hunting area under one (1) permit. Whenever a farm unit is divided by land owned by others, a separate permit shall be required for each tract of land operated as a commercial waterfowl hunting area.

(2) Noncommercial waterfowl hunting areas.

(a) Any person controlling the waterfowl hunting rights and privileges on a noncommercial waterfowl hunting area shall obtain a free migratory goose hunting area permit which shall expire at the end of waterfowl hunting season.

(b) The holder of a free migratory goose hunting area permit may be the landowner, his tenant or any person to whom these individuals have assigned exclusive control of goose hunting rights or privileges, in writing, on forms provided by the department.

(c) The permittee shall display the permit openly on the property for which it was issued and provide the permit for inspection by agents of the department and the U.S. Fish and Wildlife Service.

(3) Ohio and Mississippi River waterfowl hunters. Persons hunting geese on the Ohio or Mississippi Rivers or their overflow areas within the Ballard and Henderson-Union Reporting Areas shall carry on their person a waterfowl harvest register form provided by the department. When hunting in a party, one (1) hunter of the party may possess the goose harvest reporting form provided the names of all members of the party are written on the form.

(4) Obtaining permits and harvest reporting forms.

[(a)] Persons desiring commercial waterfowl hunting area permits, migratory goose hunting area permits, or a season supply of waterfowl harvest register forms for the Ballard Reporting Area may apply by writing to the Ballard County Wildlife Management Area, Route 1, LaCenter, Kentucky 42056, and for the Henderson-Union Reporting Area shall apply by writing to the Sloughs Wildlife Management Area, RR 2, Box 183A, Corydon, Kentucky 42406.

[(b) Waterfowl harvest register forms for either reporting area are also available from conservation officers in each area and from the Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, No. 1 Game Farm Road, Frankfort, Kentucky 40601.]

Section 10. Ballard and Henderson-Union Reporting Area Recordkeeping and Reporting Requirements. (1) Commercial waterfowl hunting area permit holders.

(a) The permittee shall maintain and keep an accurate and complete daily hunter register and waterfowl harvest record in duplicate on the hunting area on forms provided by the department.

(b) The permittee shall, during the waterfowl season, close the register at the end of shooting hours each Wednesday and deliver by the following Monday either through mail or hand delivery the original completed daily register and waterfowl harvest record [Sunday and mail or take the original of the completed daily register and waterfowl harvest record form on the subsequent Monday] to the address indicated on the form. The permittee shall hold duplicate copies of these completed forms at the place of registration and make these and current register and harvest records available for inspection by agents of the department and the U.S. Fish and

Wildlife Service.

(c) A permittee is responsible for any violation of permit requirements or violations of other regulations committed on the premises under permit unless he immediately reports such violations to a conservation officer.

(2) Migratory goose hunting area permit holders.

(a) At all times during the waterfowl season, the permittee shall make available on the premises under permit the daily hunter registration forms as provided by the department.

(b) The permittee shall require all waterfowl hunters to enter their names and the date on the register and report form prior to each time they hunt on any permit area and to record, prior to leaving the permitted premises, the numbers and kinds of geese taken.

(c) The permittee shall, during the waterfowl season, close the register at the end of shooting hours each Wednesday and deliver by the following Monday either through mail or hand delivery the original completed daily register and waterfowl harvest record [Sunday and mail or take the original of the completed daily register and waterfowl harvest record form on the subsequent Monday] to the address indicated on the form. The permittee shall hold duplicate copies of the forms for a period of two (2) months after the end of the waterfowl season and make these and current register and harvest records available for inspection by agents of the department and the U.S. Fish and Wildlife Service.

(3) Hunter requirements.

(a) Persons hunting waterfowl on commercial or noncommercial waterfowl hunting areas in the Ballard or Henderson-Union Reporting Areas shall:

1. Prior to hunting, enter their name, address, and the date of the hunt on the daily register form made available by the waterfowl hunting area operator.

2. Before leaving the premises, enter on the waterfowl harvest register form the numbers and kinds of geese taken.

(b) Persons hunting geese on the Ohio or Mississippi Rivers or their overflow areas within the Ballard and Henderson-Union Reporting Areas shall:

1. Prior to hunting, enter on the waterfowl harvest register form their name and address, or the names and addresses of all hunting party members if only one (1) hunter is carrying the form for the party, and the date.

2. At the end of each day's hunting, enter on the waterfowl harvest register form the number and kinds of geese taken.

3. Mail or hand deliver the completed original waterfowl harvest register so it is received by no later than Monday of each week. [No later than Monday of each week, mail or take the completed original of the waterfowl harvest register] to the address indicated on the form.

Section 11. General Rules Concerning Waterfowl Hunting in the Ballard Reporting Area. (1) It is unlawful to hunt waterfowl except from a blind, unless waterfowl hunting is conducted in flooded, standing timber.

(2) It is unlawful to establish or use any blind within 100 yards of any other blind.

(3) It is unlawful to establish or locate any blind within fifty (50) yards of any property line.

(4) No more than five (5) persons shall occupy a single blind at the same time.

(5) A hunter shall possess only one (1) shotgun while occupying a blind.

Section 12. Waterfowl Stamp Requirements. Individuals hunting waterfowl shall possess appropriate state and federal waterfowl stamps as stipulated in KRS 150.330 and 150.603.

DON R. McCORMICK, Commissioner
RONALD E. GENTRY, Secretary
DAVID H. GODBY, Chairman
APPROVED BY AGENCY: October 11, 1990
FILED WITH LRC: October 18, 1990 at 2 p.m.

STATEMENT OF EMERGENCY
401 KAR 47:132E

This regulation places a moratorium on the issuance of new permits and modified permits for horizontal expansions and additions of geographic areas for solid waste facilities which dispose of municipal solid waste. The moratorium terminates January 31, 1991, and may be lifted by the Natural Resources and Environmental Protection Cabinet only if a permit modification for the addition of a new geographic area is necessary to allow a facility to accept waste diverted from a facility which has ceased accepting waste, in accordance with 401 KAR 47:136E. Existing residential solid waste landfills are required by November 8, 1990 to notify the cabinet whether they intend to close or to meet the transition standards of 401 KAR 47:080, Section 4, by July 1, 1992. The cabinet has been directed to analyze this information to determine the remaining capacity for the disposal of solid waste generated in Kentucky and to report its findings to the Governor on or before January 31, 1991. The cabinet shall use the information it receives and the report it prepares to assess the disposal capacity required for waste generated in Kentucky. The regulation is necessary to assure the capacity for disposal of Kentucky's solid waste, to protect Kentucky's groundwater from contamination, and to assure that new and expanded facilities are consistent with the comprehensive state solid waste management program to be considered by the General Assembly in the special legislative session to be convened in January, 1991. An ordinary administrative regulation will not be filed with the Regulations Compiler because the General Assembly will consider this issue during the 1991 special legislative session.

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

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

401 KAR 47:132E. Moratorium on new and modified permits.

RELATES TO: KRS Chapter 224
STATUTORY AUTHORITY: KRS 224.033, 224.842, 224.887
EFFECTIVE: October 19, 1990
EXPIRES: March 31, 1991
NECESSITY AND FUNCTION: This regulation places

a moratorium on the issuance of new permits and modified permits for horizontal expansions and additions of geographic areas for solid waste facilities which dispose of municipal solid waste. The moratorium terminates January 31, 1991. The moratorium may be lifted by the cabinet only if a permit modification for the addition of a new geographic area is necessary to allow a facility to accept waste diverted from a facility which has ceased accepting waste, in accordance with 401 KAR 47:136E. Existing residential solid waste landfills are required by November 8, 1990 to notify the cabinet whether they intend to close or to meet the transition standards of 401 KAR 47:080, Section 4, by July 1, 1992. The cabinet has been directed to analyze this information to determine the remaining capacity for the disposal of solid waste generated in Kentucky and to report its findings to the Governor on or before January 31, 1991. The cabinet shall use the information it receives and the report it prepares to assess the disposal capacity required for waste generated in Kentucky. The regulation is necessary to assure the capacity for disposal of Kentucky's solid waste, to protect Kentucky's groundwater from contamination, and to assure that new and expanded facilities are consistent with the comprehensive state solid waste management program to be considered by the General Assembly in the special legislative session to be convened in January, 1991.

Section 1. The cabinet shall not issue a permit for a new solid waste facility which disposes of municipal solid waste. The cabinet shall not modify a permit for an existing solid waste facility which disposes of municipal solid waste to allow a horizontal expansion or the addition of a geographic area that is a source of solid waste to be accepted at the facility.

Section 2. The cabinet may modify a permit to add a geographic area for a solid waste facility disposing of municipal solid waste despite the prohibition of Section 1 of this regulation only in accordance with the provisions of 401 KAR 47:136E.

Section 3. The prohibition of Section 1 of this regulation is effective until January 31, 1991.

FRANK DICKERSON, Commissioner
CARL H. BRADLEY, Secretary
APPROVED BY AGENCY: October 19, 1990
FILED WITH LRC: October 19, 1990 at 4 p.m.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Linda Stacy
(1) Type and number of entities affected: The entities affected by this regulation are members of the public, transporters of solid waste, and persons engaged in the business of solid waste disposal.
(a) Direct and indirect costs or savings to those affected:
1. First year: No additional costs to the regulated community should result from this regulation because the regulation expires January 31, 1991. The slight delay should not prejudice existing permit applicants. Further, modifications for new geographic areas will be allowed if the disposal facility previously serving those areas is closed. Members of the public will benefit because the regulation will assure that new and expanded facilities are sited in a manner consistent with the mandate of the 1991 General Assembly.
2. Continuing costs or savings: There are none, since the regulation expires.
3. Additional factors increasing or decreasing costs (note any effects upon competition): None determined.
(b) Reporting and paperwork requirements: This regulation does not contain any additional reporting or paperwork requirements beyond those currently required by 401 KAR Chapters 30 through 49, inclusive.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: Changes as specified in this regulation will have no effect on the operation or costs of the Natural Resources and Environmental Protection Cabinet. The cabinet has already internalized costs associated with implementing this regulation with normal budget appropriations. This regulation as it relates to the operation of the cabinet does not change the basis for routine procedures involved in issuing solid waste permits.
2. Continuing costs or savings: The continuing costs or savings are the same as those identified for the first year.
3. Additional factors increasing or decreasing costs: None determined.
(b) Reporting and paperwork requirements: The regulation will not affect the amount of paperwork of the Natural Resources and Environmental Protection Cabinet.
(3) Assessment of anticipated effect on state and local revenues: This regulation will not have an effect on state and local revenues.
(4) Assessment of alternative methods; reasons why alternatives were rejected: The Natural Resources and Environmental Protection Cabinet must limit the number of permits issued until the General Assembly has had time to consider the issue of solid waste management during the 1991 special session. Without the moratorium, the cabinet could receive many applications to permit solid waste disposal facilities which are inconsistent with the mandate to be established by the General Assembly.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No statutes, administrative regulations or government policies were found to be in conflict, overlapping or in duplication of this regulation.
(a) Necessity of proposed regulation if in conflict: Not applicable.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.
(6) Any additional information or comments: None
TIERING: Was tiering applied? Yes. The moratorium applies only to permits for new facilities and modifications of existing permits to add new geographic areas or to horizontally expand.

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___ (If yes, complete questions 2-4)
2. State what unit, part or division of local government this administrative regulation will affect. This regulation will affect only those local governments which will seek a permit for a new solid waste disposal facility or a modification of an existing permit to add a new geographic area or to horizontally expand.
3. State the aspect or service of local government to which this administrative regulation relates. This regulation relates to solid waste disposal services provided by local governments.
4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.
Revenues (+/-):
Expenditures (+/-):
Other Explanation: No effect is expected because if a local solid waste disposal facility is closed, the waste may be diverted to another solid waste disposal facility as a minor modification.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. None
2. State compliance standards. The proposed regulation addresses solid waste disposal in Kentucky. The regulation places a temporary moratorium on permits for new solid waste disposal facilities and modifications of existing permits to add new geographic areas or to horizontally expand.
3. Minimum or uniform standards contained in the federal mandate. Not applicable.
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? Not applicable.
5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Not applicable.

STATEMENT OF EMERGENCY
401 KAR 47:134E

This regulation authorizes the Natural Resources and Environmental Protection Cabinet to limit to five (5) percent the annual increase of in-state or out-of-state waste, by weight or volume, which a residential landfill may accept, beyond the amount accepted during July, 1989 through June, 1990. The regulation also limits the amount of waste a residential landfill may accept to the maximum it is required to take under contracts executed prior to October 19, 1990. After a contract expires, a five (5) percent limitation applies to increases over the annual amount accepted during July, 1989 through June, 1990. The cabinet may revise the limitations to assure the capacity for disposal of Kentucky's solid waste, to protect against risks to human health or welfare or to the environment, or to carry out any other requirement of KRS Chapter 109 or 224, or regulations promulgated pursuant thereto. Residential landfills which were not designed to meet the more environmentally protective requirements applicable to contained landfills may be authorized to operate until July 1, 1995. However, the cabinet has found that certain of those residential landfills are greatly increasing the amount of waste they dispose, to fill the landfills before they are required to meet the more stringent requirements. Existing residential solid waste landfills are required by November 8, 1990 to notify the cabinet whether they intend to close or to meet the transition standards of 401 KAR 47:080 by July 1, 1992. The cabinet has been directed to analyze this information to determine the remaining capacity for the disposal of solid waste generated in Kentucky and to report its findings to the Governor on or before January 31, 1991. The cabinet shall use the information it receives and the report it prepares to assess the disposal capacity required for waste generated in Kentucky. The emergency regulation is necessary to assure the capacity for disposal of Kentucky's solid waste, to limit the disposal of waste at residential landfills which do not meet the more environmentally protective requirements for contained landfills, to protect Kentucky's groundwater from contamination, and to assure that waste is disposed at solid waste facilities which are consistent with the comprehensive state solid waste management program to be considered by the General Assembly in the special legislative session to be convened in January 1991. The emergency administrative regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on October 19, 1990.

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

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

401 KAR 47:134E. Limitations on amount of waste accepted by residential landfills.

RELATES TO: KRS Chapter 224
STATUTORY AUTHORITY: KRS 224.033, 224.842, 224.887
EFFECTIVE: October 19, 1990
NECESSITY AND FUNCTION: This regulation authorizes the Natural Resources and Environmental Protection Cabinet to limit to five (5) percent the annual increase of in-state or out-of-state waste, by weight or volume, which a residential landfill may accept, beyond the amount accepted during July, 1989 through June, 1990. The regulation also limits the amount of waste a residential landfill may accept to the maximum it is required to take under contracts executed prior to October 19, 1990. After a contract expires, a five (5) percent limitation applies to increases over the annual amount accepted during July, 1989 through June, 1990. The cabinet may revise the limitations to assure the capacity for disposal

of Kentucky's solid waste, to protect against risks to human health or welfare or to the environment, or to carry out any other requirement of KRS Chapter 109 or 224, or regulations promulgated pursuant thereto. Residential landfills which were not designed to meet the more environmentally protective requirements applicable to contained landfills may be authorized to operate until July 1, 1995. However, the cabinet has found that certain of those residential landfills are greatly increasing the amount of waste they dispose, to fill the landfills before they are required to meet the more stringent requirements. Existing residential solid waste landfills are required by November 8, 1990 to notify the cabinet whether they intend to close or to meet the transition standards of 401 KAR 47:080, Section 4, by July 1, 1992. The cabinet has been directed to analyze this information to determine the remaining capacity for the disposal of solid waste generated in Kentucky and to report its findings to the Governor on or before January 31, 1991. The cabinet shall use the information it receives and the report it prepares to assess the disposal capacity required for waste generated in Kentucky. The emergency regulation is necessary to assure the capacity for disposal of Kentucky's solid waste, to limit the disposal of waste at residential landfills which do not meet the more environmentally protective requirements for contained landfills, to protect Kentucky's groundwater from contamination, and to assure that waste is disposed at solid waste facilities which are consistent with the comprehensive state solid waste management program to be considered by the General Assembly in the special legislative session to be convened in January 1991.

Section 1. Annual increases in the amount of in-state or out-of-state waste accepted by a residential landfill shall not exceed more than five (5) percent of the annual amount, by weight or volume, accepted during the twelve (12) month period from July, 1989 through June 1990, unless the following criteria are met:

(1) The landfill is designed in accordance with the requirements of 401 KAR Chapters 30 through 49, inclusive, applicable to contained landfills;

(2) The landfill is required to accept a greater amount of waste pursuant to a contract executed before October 19, 1990; or

(3) The cabinet determines that an alteration is necessary to be consistent with the area solid waste management plan, to assure the capacity for disposal of Kentucky's solid waste, to protect against risks to human health or welfare or to the environment, or to carry out any other requirement of KRS Chapter 109 or 224, or regulations promulgated pursuant thereto.

Section 2. For a residential landfill which did not operate for the entire period from July, 1989 through June, 1990, the five (5) percent limitation of Section 1 of this regulation shall apply to the average daily amount of waste the landfill accepted over the period it was in operation.

Section 3. If a residential landfill is required to accept an amount of waste greater than that accepted from July, 1989 through June, 1990, pursuant to a contract executed before October 19, 1990, the landfill shall not accept increases in the amount of waste, by weight or volume, beyond the maximum required by that contract. Upon termination of the contract, annual increases in the amount of in-state or out-of-state waste accepted shall not exceed more than five (5) percent of the annual amount, by weight or volume, accepted during July 1989 through June, 1990, unless the cabinet determines that an alteration is necessary in accordance with Section 1(3) of this regulation.

Section 4. The owner or operator of a residential landfill seeking to increase the amount of waste which it may accept shall apply for a major modification of its permit in accordance with 401 KAR 47:130 and 401 KAR 47:140. The permittee shall demonstrate to the cabinet that during the period from June 1, 1990 to the date of the application:

(1) The landfill has not accepted waste from sources which were not approved in its permit, as required by 401 KAR 48:090, Section 8(1)(c); and

(2) The landfill has kept accurate records of the volumes of waste received from each source, as required by 401 KAR 47:190, Section 8(1)(b).

FRANK DICKERSON, Commissioner
CARL H. BRADLEY, Secretary
APPROVED BY AGENCY: October 19, 1990
FILED WITH LRC: October 19, 1990 at 4 p.m.

STATEMENT OF EMERGENCY
401 KAR 47:136E

This regulation requires waste to be diverted to a permitted solid waste disposal facility with adequate capacity, if the Natural Resources and Environmental Cabinet revokes, suspends or denies a permit for a solid waste facility, or orders a facility to cease accepting waste. The owner or operator of the facility shall post and maintain a sign advising the public that waste shall not be disposed at the facility. The diversion shall require a minor permit modification to the permit of the receiving facility. Existing residential solid waste landfills are required by November 8, 1990 to notify the cabinet whether they intend to close or to meet the transition standards of 401 KAR 47:080, Section 4 by July 1, 1992. The cabinet has been directed to analyze this information to determine the remaining capacity for the disposal of solid waste generated in Kentucky and to report its findings to the Governor on or before January 31, 1991. The cabinet shall use the information it receives and the report it prepares to assess the disposal capacity required for waste generated in Kentucky. The emergency regulation is necessary to assure that solid waste is disposed at a permitted solid waste disposal facility in a manner protective of human health and the environment and consistent with Kentucky's long-range planning goals for solid waste management, to protect Kentucky's groundwater from contamination, and to assure that waste is disposed at solid waste facilities which are consistent with the comprehensive state solid waste management program to be considered by the General Assembly in the special legislative session to be convened in January, 1991. The emergency

administrative regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on October 19, 1990.

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

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

401 KAR 47:136E. Diversions of waste.

RELATES TO: KRS Chapter 224
STATUTORY AUTHORITY: KRS 224.033, 224.842, 224.887
EFFECTIVE: October 19, 1990
NECESSITY AND FUNCTION: This regulation requires waste to be diverted to a permitted solid waste disposal facility with adequate capacity if the cabinet revokes, suspends or denies a permit or orders a solid waste disposal facility to cease accepting waste. That diversion shall require a minor permit modification to the permit of the receiving facility. Existing residential solid waste landfills are required by November 8, 1990 to notify the cabinet whether they intend to close or to meet the transition standards of 401 KAR 47:080, Section 4 by July 1, 1992. The cabinet has been directed to analyze this information to determine the remaining capacity for the disposal of solid waste generated in Kentucky and to report its findings to the Governor on or before January 31, 1991. The cabinet shall use the information it receives and the report it prepares to assess the disposal capacity required for waste generated in Kentucky. The regulation is necessary to assure that solid waste is disposed at permitted solid waste disposal facilities in a manner protective of human health and the environment and consistent with Kentucky's long-range planning goals for solid waste management, to protect Kentucky's groundwater from contamination, and to assure that solid waste is disposed in a manner consistent with the comprehensive state solid waste management program to be considered by the General Assembly in the special legislative session to be convened in January, 1991.

Section 1. If the cabinet revokes, suspends or denies a permit for a solid waste disposal facility, orders the facility to cease accepting waste, or if the facility otherwise ceases to accept waste, the wastes which would have been accepted by the facility shall be diverted to a permitted solid waste facility with adequate disposal capacity. The diversion shall require a minor modification of the permit for the solid waste facility accepting the diverted waste, in accordance with 401 KAR 47:130.

Section 2. The owner or operator of the solid waste disposal facility prohibited from accepting waste shall post and maintain a clearly-legible sign advising the public that waste shall not be disposed at the facility.

FRANK DICKERSON, Commissioner
CARL H. BRADLEY, Secretary

APPROVED BY AGENCY: October 19, 1990
FILED WITH LRC: October 19, 1990 at 4 p.m.

STATEMENT OF EMERGENCY
501 KAR 6:070E

In order to continue to operate the Kentucky Correctional Institution for Women in accordance with KRS Chapter 196, the Corrections Cabinet needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because the effected institutional policies must be implemented to allow the Kentucky Correctional Institution for Women to submit a series of revised policies to comply with a federal lawsuit Canterino v. Wilson, 869 F2d 948 (6th Cir., 1989). This emergency regulation will be replaced by the ordinary administrative regulation filed with LRC on October 15, 1990 in accordance with KRS Chapter 13A.

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

CORRECTIONS CABINET

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

RELATES TO: KRS Chapters 196, 197, 439
STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640
EFFECTIVE: October 18, 1990
NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the secretary to adopt, amend or rescind regulations necessary and suitable for the proper administration of the cabinet or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards by the American Correctional Association. These regulations are in conformity with those provisions.

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

KCIW 01-06-01	Legal Assistance for Corrections Staff
KCIW 01-08-01	News Media Access
KCIW 02-01-01	Comprehensive Insurance Coverage
KCIW 02-02-01	Fiscal Management: Audits
KCIW 02-02-03	Fiscal Management: Checks
KCIW 02-02-04	Institution Purchasing Procedures
KCIW 02-03-01	Inventory Control of Nonexpendable Personal Property
KCIW 02-03-03	Criteria for Selection of Bidders and Vendors
KCIW 02-04-01	Accounting Procedures
KCIW 02-05-01	Inmate Canteen/Staff Canteen
KCIW 02-07-01	Release of CETA Money Earned
KCIW 06-01-01	Inmate Records

KCIW 06-01-02	Transfers to Community Centers and the Minimum Security Unit
KCIW 06-01-03	Storage of Expunged Records
KCIW 10-01-01	Special Management Unit General Operation and Regulations
KCIW 10-01-02	Special Management Unit Programs, Placement and Review
KCIW 10-01-04	Special Security [Inmates] (Amended 10/15/90)
KCIW 11-01-01	Food Service Operation Inspections
KCIW 11-01-02	Budgeting, Accounting, and Purchasing Procedures for Food Products
KCIW 11-02-01	Menu Preparation/Special Diets
KCIW 11-03-01	General Guidelines for Food Service Workers
KCIW 11-03-02	General Guidelines for Food Service Workers
KCIW 11-04-01	Health Regulations and General Guidelines for the Food Service Area
KCIW 12-01-01	Control of Pests and Vermin
KCIW 12-02-01	Laundry Facilities/Clothing Issuance
KCIW 12-02-03	Donated Items
KCIW 12-04-01	Sanitation and General Living Conditions
KCIW 13-01-01	Provision of Medical and Dental Care
KCIW 13-01-02	Preliminary Health Screening and Appraisal
KCIW 13-01-03	Use of Pharmaceutical Products
KCIW 13-03-01	Emergency Care
KCIW 13-03-02	Infirmary Care and Outside Services
KCIW 13-03-03	Outside Hospital Security
KCIW 13-04-01	Medical Alert System
KCIW 13-04-02	Psychiatric/Psychological Services
KCIW 13-06-01	Informed Consent
KCIW 13-07-01	Detoxification and Alcohol or Chemical Dependency Guidelines
KCIW 13-08-01	Medical Exams for New Employees
KCIW 13-09-01	Suicide Prevention and Intervention Program
KCIW 13-11-01	Infection Control
KCIW 14-01-02	Inmate Rights
KCIW 14-02-01	Access to Attorneys and Designated Counsel Substitutes
KCIW 14-03-01	Inmates Are Not Subject to Discrimination Based on Race, Religion, National Origin, Sex, Handicap, or Political Beliefs
KCIW 14-04-01	Inmate Grievance Procedure
KCIW 15-01-01	Offenses and Penalties
KCIW 15-01-02	Adjustment Committee Procedures and Programs
KCIW 15-03-01	Inmate Rule Book
KCIW 15-04-01	Honor Program (Amended 10/15/90) [Incentive Levels System]
KCIW 15-06-01	Restriction Guidelines
KCIW 16-01-01	Inmate Correspondence [(Amended 4/13/90)]
KCIW 16-01-03	Staff Mail
KCIW 16-02-01	Inmate Access to Telephone [(Amended 4/13/90)]
KCIW 16-02-02	Intra-Institution Phone Calls
KCIW 16-03-01	Inmate Visiting Regulations
KCIW 16-03-02	Unauthorized Items for Picnic Lunches, Food Packages and Regular Packages
KCIW 16-04-01	Inmate Indigent Fund
KCIW 16-05-01	Inmate Packages (Amended 10/15/90) [Commercial Vendor Packages, Appliance and Drug Store Orders]
KCIW 17-01-01	Assessment Center Operation and Reception Programs
KCIW 17-01-02	Assessment/Classification Center Operations, Rules and Regulations
KCIW 17-01-03	Assessment and Classification Unit Property Guidelines
KCIW 17-02-01	Identification Department Admissions
KCIW 17-03-01	Notifying Inmates Families of Admission and Procedures for Mail and Visiting
KCIW 17-05-01	Inmate Personal Property Guidelines (Amended 10/15/90)
KCIW 18-01-02	Institutional Housing Assignments
KCIW 18-02-01	Classification Procedures
KCIW 18-05-01	Special Needs Inmates
KCIW 18-06-01	Institutional Status Codes
KCIW 19-01-01	Inmate Work/Program Assignments
KCIW 19-03-01	Landscape and Maintenance Work Details
KCIW 20-01-01	Education Programs
KCIW 20-01-03	Vocational Education: Curriculum Flexible Schedule, Upgrade Programs and Release Preparation Program
KCIW 20-01-04	Entry - Exit Vocational School
KCIW 20-01-05	Vocational Programs: Approved, Assessed and Contain Guidelines for Vocational Records
KCIW 20-01-06	Vocational Education: Staffing Patterns/Requirements
KCIW 20-01-07	Vocational Counselor
KCIW 20-01-08	Vocational Education: Community Resources and the Integration with Academic Progress
KCIW 20-01-09	Vocational Education: Support Equipment
KCIW 20-01-10	Control of Flammable, Hazardous, Toxic and Caustic Materials in the Vocational Area
KCIW 22-01-04	Inmate Club Activities
KCIW 23-01-01	Religious Services
KCIW 25-01-01	Preparole Progress Report
KCIW 25-02-01	Temporary Release/Community Center
KCIW 25-02-02	Furloughs
KCIW 25-03-01	Escorted Leave into the Community

JOHN T. WIGGINTON, Secretary
APPROVED BY AGENCY: October 15, 1990
FILED WITH LRC: October 18, 1990 at 2 p.m.

STATEMENT OF EMERGENCY
502 KAR 45:050E

This emergency administrative regulation modifies procedures required by KRS 16.040(3) governing the physical examination of applicants. This emergency regulation is necessary to permit physical examination of applicants at facilities throughout the state. This regulation is immediately necessary as bench press devices are only available at Frankfort, Kentucky and use of push-ups as an alternative will allow testing at other locations. This emergency regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on November 7, 1990.

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

JUSTICE CABINET
Department of State Police

502 KAR 45:050E. Physical examination.

RELATES TO: KRS 16.040
STATUTORY AUTHORITY: KRS 16.080
EFFECTIVE: November 8, 1990
NECESSITY AND FUNCTION: KRS 16.040 provides that the Commissioner of the Department of State Police may establish minimum physical requirements and conduct such tests and examinations as necessary to assure the fitness of applicants for employment as officers. This regulation outlines the physical requirements and the physical examination requirement.

Section 1. (1) Each applicant shall be required to submit to a physical examination by a qualified, licensed physician retained by the department for that purpose as a part of the selection process.
(2) The department may, if deemed necessary by the commissioner, allow the applicant to be examined by a physician of the applicant's choice at his own expense. If a physician other than one retained by the department performs the examination, he shall be required to fill out and sign the department's physical examination forms.

Section 2. The following guidelines shall to be used to determine if the applicant is in good health:
(1) Nose, throat, and speech. Chronic catarrh, sinus trouble, deviated septum, or chronically infected or enlarged tonsils shall be deemed cause for rejection. Deformities of the mouth or lips and speech impediments, including stammering and stuttering, shall be deemed cause for rejection.
(2) Teeth. All teeth shall be in good repair. Dentures or artificial replacements are acceptable.
(3) Ears. Hearing shall be normal in both ears; an average loss of thirty (30) decibels or more in either ear at the 500, 1000, 2000 or 3000 Hertz level as shown by audiometer test shall be deemed cause for rejection.
(4) Thyroid. Goiter or improperly functioning thyroid shall be deemed cause for rejection.
(5) Chest. Respiration shall be full, easy and regular; respiration shall be clear and distinct over both lungs.
(6) Heart. The action of the heart shall be uniform, free and steady, with regular rhythm; the heart shall be free from organic diseases. Blood pressure shall be within the limits of 135/80 and 110/74.
(7) Genitalia. Hydrocele or large varicorele, deformity of testicles, tumor formation, epidymites and venereal disease shall be deemed cause for rejection.
(8) Rectum. Hemorrhoids, fissure, fistula and pilonial cyst shall be deemed cause for rejection.
(9) Trunk and extremities. Poor posture, curvature of the spine, deformed chest, bow legs, knock knees, weak ankles, flat feet, deformed toes, shortening of long bones, enlarged or poorly functioning joints, amputated fingers or toes, varicose veins, paralysis or defective gait shall be deemed cause for rejection.
(10) Organic diseases. Family history of any hereditary disease, history of dizziness, epilepsy, confinement for mental illness in any institution, stomach ulcer, kidney disease, albuminuria or glycosuria, anemia, or skin disease shall be deemed cause for rejection.

Section 3. Each applicant shall submit to and pass a physical ability test based upon standards set by the commissioner. This test shall cover four (4) areas based upon sex: height to weight ratio; bench press or push-ups in relation to body weight; flexibility; and sit-ups.

W. MICHAEL TROOP, Secretary
APPROVED BY AGENCY: November 7, 1990
FILED WITH LRC: November 8, 1990 at 2 p.m.

STATEMENT OF EMERGENCY
902 KAR 20:116E

This emergency regulation implements a new licensure category of ambulance services called "Advanced Life Support". This regulation is necessary to provide ambulance service licensure standards that will clarify the regulatory authority and end the moratorium for approving new advanced life support services. Formerly, the Board of Medical Licensure approved new services, the Cabinet for Human Resources will now approve new services. The emergency regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation will be filed with the Regulations Compiler before October 15, 1990.

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

CABINET FOR HUMAN RESOURCES
Office of the Inspector General

902 KAR 20:116E. Advanced life support emergency care and ambulance transportation.

RELATES TO: KRS 216B.010 to 216B.130, 216B.990
STATUTORY AUTHORITY: KRS 216B.042, 216B.105
EFFECTIVE: October 15, 1990
NECESSITY AND FUNCTION: KRS 216B.042 mandates that the Cabinet for Human Resources regulate health facilities and health services. This regulation provides the requirements for the operation of advanced life support emergency care and ambulance transport.

Section 1. Definitions. (1) "Advanced life support (ALS) emergency care and ambulance transportation" means the provision of services that meet the minimal essential requirements as established by the cabinet in 902 KAR 20:115 and this regulation.
(2) "Emergency medical technician-paramedic" means a person certified pursuant to 201 KAR 9:101 through 201 KAR 9:136.
(3) "Ambulance" means the vehicle provided for transportation on an emergency or scheduled basis to persons who are sick, injured, or otherwise incapacitated, and may require immediate stabilization and continued medical response and intervention during transit or upon arrival at the patient's destination to safeguard the patient's life or physical well-being.

Section 2. Advanced Life Support Emergency Care and Ambulance Transportation Service. An advanced life support (ALS) ambulance service shall meet the minimum requirements of 902 KAR 20:115. It shall also meet the additional requirements of this regulation.

(1) Evidence shall be on file to verify that the ALS written medical protocols have been reviewed by the Kentucky Board of Medical Licensure to assure compliance with 201 KAR 9:161.

(2) An ALS emergency care and ambulance transportation service shall provide services on a twenty-four (24) hour, seven (7) days a week basis. This provision may be met through an adequate call system or by a written mutual aid agreement with another licensed advanced life support emergency care ambulance service.

(3) Each ALS ambulance shall meet or exceed either KKK-1822B or KKK-1822C federal specifications for ambulance vehicles.

Section 3. ALS Staffing. (1) Each ambulance shall be staffed according to the requirements of 201 KAR 9:171, Section 5.

(2) Each ALS nontransportation vehicle shall be staffed by a minimum of one (1) person who shall have minimum training and current certification as an EMT-paramedic.

(3) In addition, each ALS service shall have a medical director who:

(a) Shall assume responsibilities in accordance with 201 KAR 9:171, Section 2(1) through (5);

(b) Shall assume other responsibilities as agreed upon between the medical director and the director of the ALS ambulance service;

(c) Shall meet the qualifications specified in 201 KAR 9:171, Section 2(6). Evidence shall be on file, to verify that the qualifications of the medical director have been reviewed by the Kentucky Board of Medical Licensure to assure compliance with 201 KAR 9:171, Section 2(6); and

(d) Shall have, by January 1, 1992, completed a residency program in emergency medicine approved by the Residency Review Committee of the American Medical Association, or shall be a physician who holds or is in the process of completing certification in advanced cardiac and advanced trauma life support, or shall have, in the personnel file, written approval from the Kentucky Board of Medical Licensure.

Section 4. Equipment and Supplies. (1) Each ambulance used in the provision of ALS emergency care and ambulance transportation shall carry and maintain in full operational order the minimum equipment and supplies required by 902 KAR 20:115.

(2) A nonambulance, nontransportation ALS vehicle shall have available the minimum equipment and supplies required by 902 KAR 20:115. This may be accomplished through the coordinated response of an ambulance from the same service, or the coordinated response of an ambulance from a separate service under the provisions of a written mutual aid agreement on file with both services.

(3) In addition, each ALS service shall carry and maintain in full operational order the minimum ALS equipment and supplies as required in 201 KAR 9:171, Section 7, on each ALS ambulance or nontransportation vehicle.

Section 5. Drugs. (1) Each ambulance used in the provision of ALS emergency care and ambulance transportation, and each nonambulance, nontransportation ALS vehicle operated by the service, shall stock and maintain the classes of drugs as authorized according to 201 KAR 9:161, Section 3(6).

(2) Evidence shall be on file to verify that the list of drugs used by the service has been reviewed by the Kentucky Board of Medical Licensure to assure compliance with 201 KAR 9:161, Section 3(6).

(3) Each ALS service shall maintain an accountability system for the storage, handling, and distribution, as well as disposal of unused portions, of these drugs in accordance with federal and state drug and pharmacy statutes and regulations. However, a locked compartment, or equivalent approved by the cabinet, shall be provided for the storage of controlled drugs.

EDWARD A. WILSON, Inspector General
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: October 5, 1990
FILED WITH LRC: October 15, 1990 at 4 p.m.

REGULATIONS AMENDED BY THE PROMULGATING AGENCY AND THE REVIEWING SUBCOMMITTEE

COMPILER'S NOTE: The following regulations were amended by the promulgating agency and the Administrative Regulation Review Subcommittee on November 7 & 8, 1990.

DEPARTMENT OF PERSONNEL
(As Amended)

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 Institutional
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 12. [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.

THOMAS C. GREENWELL, Commissioner
APPROVED BY AGENCY: July 3, 1990
FILED WITH LRC: August 3, 1990 at 2 p.m.

DEPARTMENT OF PERSONNEL
(As Amended)

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.

THOMAS C. GREENWELL, Commissioner
APPROVED BY AGENCY: July 3, 1990
FILED WITH LRC: August 3, 1990 at 2 p.m.

DEPARTMENT OF PERSONNEL
(As Amended)

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 1. [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 2. [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 3. [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 4. [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 5. [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.]

THOMAS C. GREENWELL, Commissioner
APPROVED BY AGENCY: July 3, 1990
FILED WITH LRC: August 3, 1990 at 2 p.m.

REVENUE CABINET
Department of Administrative Services
(As Amended)

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 1. Farm Machinery. The farm machinery exemption provided at KRS 139.480(10) [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 2. [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 3. [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 4. [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 5. Exemption Certificates. The sales and use tax law sets forth various types of tangible personal property which may be purchased tax exempt by persons engaged in farming. The exemptions may be found at KRS 139.470(2) and KRS 139.480(4), (5), (6), (7), (8), (10), (13), (14) and (15). The appropriate exemption certificates which a vendor must have on file executed by a farmer to substantiate the nontaxable status of such sales are:

(1) A properly executed Farm Machinery Exemption Certificate, Revenue Form 51A148 (3-88), for farm machinery and attachments;

(2) A properly executed Agricultural Certificate of Exemption, Revenue Form 51A106 (4-86), for seed, feed, fertilizer, 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:

(3) A properly executed Certificate of Exemption for On-Farm Grain or Soybean Facilities, Revenue Form 51A148-S1 (3-88), for machinery, equipment, attachments and any materials incorporated into the construction, renovation or repair of on-farm grain or soybean facilities; and

(4) A properly executed Certificate of Exemption for On-Farm Chicken Raising Facilities, Revenue Form 51A153 (6-90), for 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.

Section 6. The exemption certificates specified in Section 5 of this regulation are hereby incorporated by reference and may be obtained without charge from the Revenue Cabinet, Frankfort, Kentucky 40601. The certificates may be inspected and copied at the Frankfort office of the Revenue Cabinet located on the fourth floor of the Capitol Annex Building or the Taxpayer Service Centers listed below between the hours of 8 a.m. and 4:30 p.m. (local time).

Revenue Cabinet Taxpayer Service Centers

Ashland
P.O. Box 687
1422 Winchester Avenue
Ashland, KY 41105-0687
(606) 329-9982

Bowling Green
P.O. Box 2040
1502 Westen Avenue
Bowling Green, KY 42101
(502) 843-5470

Corbin
1707 Eighteenth Street
Falls Road Plaza, Suite 5
Corbin, KY 40701
(606) 528-3322

Hazard
233 Birch Street
P.O. Box 419
Hazard, KY 40701
(606) 439-2388

Hopskinsville
Hammond Plaza, P.O. Box 695
Hopkinsville, KY 42240
(502) 887-2521

Lexington
301 East Main Street
Suite 500
Lexington, KY 40507
(606) 233-3837

Louisville
620 South Third Street, Suite 102
Louisville, KY 40202-2402
(502) 588-4512

Northern Kentucky
Kentucky Executive Building
Room 210
2055 Dixie Highway
Fort Mitchell, KY 41011
(606) 292-6603

Owensboro
311 West Second Street
P.O. Box 628
Owensboro, KY 42301
(502) 686-3301

Paducah
555 Jefferson Street
P.O. Box 2336
Paducah, KY 42002-2336
(502) 444-8148

Pikeville
1279 North Mayo Trail
Pikeville, KY 41501
(606) 437-4075

[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 construction, 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 7. [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.

GENERAL GOVERNMENT CABINET
State Board of Accountancy
(As Amended)

201 KAR 1:068. Quality enhancement program.

RELATES TO: KRS 325.240
STATUTORY AUTHORITY: KRS 325.240
NECESSITY AND FUNCTION: [To promulgate administrative regulations of the State Board of Accountancy.] This regulation pertains to the quality enhancement program.

Section 1. Definitions. (1) [(5)] "Issuer" means sole practitioners [individuals], partnerships, professional service corporations, associations or other entities. ["Board" means the State Board of Accountancy of the Commonwealth of Kentucky.]

(2) "Office" means each place of business of a Kentucky practice unit which constitutes a separate geographical location where the practice unit engages in the practice of public accountancy.

(3) "Practice unit" means:

(a) Each certified public accountant or public accountant [as defined in KRS 325.220] engaged in the practice of public accountancy as sole proprietors;

(b) All partnerships, professional service corporations, associations or other entities engaged in the practice of public accountancy; or

(c) All out-of-state certified public accountants or firms of certified public accountants, issued or applying for a temporary permit [pursuant to KRS 325.390(2) for the purpose of enabling such individuals or firms to perform public accounting services in Kentucky].

(4) "Reports" mean [as used in this regulation, refers to] legible copies of an audit, a review and a compilation with disclosures issued by the practice unit in the twelve (12) months prior to submission to the board for [a desk] review. Reports to be submitted shall be year-end financial reports and not interim [quarterly] statements. The reports may have the identity of the client and the issuer obscured or deleted to preserve confidentiality prior to submission to the board for evaluation. The QEP transmittal form, prepared by the board, shall be used to identify the issuer and to forward said reports for review.

(5) [(6)] "Steering committee" means a committee of licensees appointed by the board and a board representative [pursuant to KRS 325.240] which is responsible for the administration [conduct] of the program subject to approval of the board.

(6) [(7)] "Transmittal form," [when used in this regulation, shall] means the document distributed by the board to be used in submitting copies of reports for evaluation or to advise the board that no reports were issued by the practice unit in the prior fiscal year.

Section 2. Report Submission Cycle. (1) [Beginning with renewals of firm registrations and/or individual permits for fiscal year 1987-88,] The quality enhancement program shall operate on [will adopt] a three (3) year cycle in reviewing reports [for adherence to standards]. One-third (1/3) of all practice units registered with the board shall [will] be selected to submit their reports for evaluation at the time renewal forms are filed with the board.

(2) One-half (1/2) of the remaining practice units shall [will] be assigned to the second year of the three (3) year cycle and the balance scheduled to file reports in the third year of the three (3) year cycle.

(3) Practice units registered or licensed with the board for the first time shall [will not] be expected to file sample reports in the first full fiscal year following initial registration or licensure [until renewal forms are filed for the next fiscal year].

(4) Branch offices of a practice unit which issue reports separately from the main office shall be expected to forward reports during the year in which the main office of the firm is required to submit reports. If the branch office is not responsible for the issuance of reports, such office shall be exempt from the report

submission requirements of this program.

(5) Out-of-state practice units shall be required to provide the board with legible copies of an audit, a review and a compilation with disclosures at the time of their application for renewal of the temporary permit and **in accordance with Section 4 of this regulation** [annually thereafter].

(6) Practice units not issuing a type [particular level] of report shall [may] be exempt[ed] from the report submission requirements for that type of report [level] by filing statements to that effect on the QEP transmittal form [prepared by the board].

(7) The three (3) year cycle described in subsections (1) and (2) of this section shall have no effect on the [annual] firm registration and individual permit renewal requirements [specified in KRS 325.330].

(8) A practice unit may qualify for exemption from QEP if there is no pending or unfinished action from the board's program and the practice unit provides a document indicating the practice unit has undergone a quality review, peer review, or other equivalent review during the last three (3) years and has received an "unqualified" opinion. [To assist practice units in complying with the report submission requirements, a reminder notice shall be forwarded prior to the license renewal process.]

(9) An office of a Kentucky practice unit which is affiliated with a national or regional firm that has undergone a peer review, or other equivalent review acceptable to the board during the last three (3) years and has received an "unqualified" opinion shall be exempt from the board's program.

Section 3. [4.] Desk Reviews. (1) Upon receipt of the reports [by the board], file numbers shall [will] be assigned and the QEP transmittal form, containing the identify of the issuer, shall [will] be separated from the report.

(2) A desk review shall [will] be conducted on all reports received and shall [will] consist of an in-depth analysis of the report by a volunteer reviewer, who shall be a permit holder skilled in accounting and auditing and [who] has participated in a training program sponsored by the board.

(3) The initial review and all subsequent reviews shall seek to determine adherence or departure from [lack thereof with]applicable standards of reporting.

(4) Upon completion of the desk reviews, the volunteer reviewer shall submit his comments to the program coordinator and the steering committee for consideration.

(5) Reports determined to contain no deficiencies or only minor deficiencies shall be classified as acceptable. If the steering committee deems it appropriate, suggestions for corrective action may be transmitted to the issuer.

(6) Reports which contain more serious deficiencies such as departures from technical reporting or accounting standards, but are of the type that will not render the statements materially inaccurate or misleading shall be classified as marginal.

(7) Reports which are materially inaccurate or misleading shall [will] be classified as substandard. Such statements violate one (1) or more significant reporting standards, seriously depart from generally accepted accounting principles or do not include material disclosures necessary for fair presentation.

Section 4. [3.] Subsequent Years. (1) Practice units notified that the reports submitted for review were classified as acceptable or marginal shall not be required to submit reports for review for three (3) years.

(2) Practice units receiving a substandard classification on the reports submitted shall be required to submit reports the following year. If the subsequent reports result in an acceptable or marginal classification, the practice unit would then be placed in the three (3) year cycle described in Section 2 of this regulation.

(3) Practice units no longer issuing a type of report[s, as defined in Section 1 of this regulation], shall advise [report that fact to] the state board on the QEP transmittal form and shall [will] be exempt[ed] from the report submission requirements for that particular type [level] of reporting.

Section 5. Steering Committee Critique. (1) The steering committee shall review the comments recorded by the reviewers for materiality and substance and determine what comments shall [will] be forwarded to the issuer.

(2) Following approval by the steering committee, letters of constructive comment and the classification assigned to the report shall be mailed to issuers regarding the [perceived] departures from standards detected in their reports. Such correspondence shall include authoritative citations to support the conclusions drawn. Issuers shall be encouraged to communicate their disagreement with the findings.

Section 6. Disposition of Files. [(1) Issuers of reports deemed by the steering committee to adhere to applicable standards of reporting will be so notified.]

[(2) A response to the letter of constructive comment where the report was classified as marginal will be optional.]

(1) [(3)] Issuers receiving notification that their report was classified as substandard shall be required to respond to the findings, providing documentation to support areas of disagreement, and proposing means to improve their financial reporting if they agree with the findings of the steering committee.

(2) [(4)] The steering committee shall review responses from the issuers and determine whether or not the areas of disagreement warrant an adjustment in classification or a field review of the supporting workpapers and documentation.

(3) [(5)] The steering committee, or a representative thereof, shall regularly report to the board on the status of the Quality enhancement program, and, where appropriate, recommend that field reviews of workpapers be conducted.

(4) [(6)] If [Should] a field review is [be] deemed necessary, procedures contained in KRS 325.360 shall [will] be followed. The results of the field review of the workpapers and documentation shall be reported to the issuer and to the steering committee. The results shall be the basis for discussion concerning remedies to upgrade the reporting of the practice unit.

(5) [(7)] Failure of a practice unit to submit the reports required by this regulation shall

not prevent the annual renewal of an individual permit or a firm registration; but shall [will] result in the initiation of an investigation by the board under KRS 325.360.

RONALD W. TIMMONS, President
APPROVED BY AGENCY: August 24, 1990
FILED WITH LRC: September 13, 1990 at 11 a.m.

COMPILER'S NOTE: The following two regulations were amended by the Interim Joint Committee on Agriculture and Natural Resources and the promulgating agency on November 14, 1990, and became effective on November 15, 1990.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Water
(As Amended)

401 KAR 8:100. Design, construction and approval of new or modified facilities.

RELATES TO: KRS Chapter 224; 40 CFR Part 141
STATUTORY AUTHORITY: KRS 224.032, 224.033, Public Law 93-523, The Safe Drinking Water Act, as amended in 1986 and by the Lead Contamination and Control Act of 1988, Public Law 100-572, 42 U.S.C.A. 300f, 300g, 300j
NECESSITY AND FUNCTION: KRS 224.032 directs the cabinet to enforce rules and regulations adopted by the secretary for the regulation and control of the purification of water for public and semipublic use. The Safe Drinking Water Act, as amended by the Safe Drinking Water Act Amendments of 1986, provides for primary enforcement responsibility by states that have adopted regulations "no less stringent than the national primary drinking water regulations", as well as meeting other criteria stipulated by the Act. The Commonwealth of Kentucky has accepted and is currently exercising such primary enforcement responsibility. This regulation sets out design plan requirements for the construction of new and expanded facilities that deliver pure water for public or semipublic use. This regulation will repeal Section 3 of 401 KAR 6:015 and contains minor revisions.

Section 1. Plans and Specifications. (1) Plans to be submitted. Before a supplier or potential supplier of water may enter into a financial commitment for or initiate construction of a new public water system, or increase the capacity of an existing public water system, he shall submit the preliminary plans to the cabinet. An applicant shall demonstrate to the cabinet evidence of efforts to avoid locating part or all of the new or expanded facility at a site which is subject to a significant risk from earthquakes, floods, fires or other disasters which could cause a breakdown of the public water system or a portion thereof. Except for the intake structure, the facility shall be out of the 100-year flood plain.

(2) Preliminary information. The following information shall be submitted to the cabinet by a professional engineer on behalf of the applicant along with the fee required by 401 KAR 8:050 Section 1(1):

(a) The names of the applicant and the owner of the plant;

(b) A United States Geological Survey quadrangle map which shows the location of the proposed facility;

(c) The proposed source of water and quantity available, with the location of the intake or wellhead identified by latitude and longitude in degrees, minutes and seconds;

(d) An analysis of the water from the proposed source, which covers all regulated parameters, performed by a laboratory certified by the cabinet or its authorized agent;

(e) A description of the proposed facility, including size, flow rate through filters, settling basin size, and other general criteria; and

(f) An operation plan, including anticipated load, hours of operation, area served and the name of the plant operator.

(3) Preliminary plans approval. Upon receipt and review of the preliminary plans, as set forth in subsection (1) of this section, the cabinet shall [will] either approve the preliminary plans or return them to the supplier of water for revision. Approval of the preliminary plans signifies approval only of the concept described in the preliminary plans and does not alter in any way the responsibility of the supplier of water to submit complete plans and specifications to the cabinet for final approval. The facility shall comply with the approved preliminary plans. Any change in the final design from the concept set forth in the preliminary plans shall be approved prior to its incorporation in the final plans and specifications.

(4) Preliminary plans for semipublic treatment facilities or distribution systems. Preliminary plans are not required by the cabinet for semipublic treatment facilities or for distribution system construction, extensions or improvements.

(5) Final plans and specifications for water treatment plants and distribution facilities.

(a) Plans for the construction or modification of public water systems shall be submitted by the water system or shall be accompanied by a letter from the water system confirming that it has reviewed the plans, accepts the design and can and will provide water service to the project. Public water systems which purchase water from another public water system, shall also submit a letter from the seller of water for all construction or modification projects if: such project will result in exceeding eighty-five (85) percent of the purchasers current purchase contract; or such project could result in a pressure reduction below thirty-five (35) pounds per square inch in either the purchaser's or the seller's system; or, such project will result in a demand for water by the purchaser in excess of a 10,000 gallon per day increase. This requirement may be waived by the cabinet if the purchaser shows that a reasonable attempt to obtain the letter has been made and the seller of water fails to provide the required letter. In no event will this provision be the sole justification for rejection of the proposed project. The intent is to alert the seller and the purchaser that they are approaching their water purchase contract limitations and the state standards on minimum water pressure.

(b) Plans and specifications for all public water systems shall be prepared and submitted to the cabinet by a professional engineer registered in Kentucky, and shall bear his seal.

The seal of a professional engineer is not required on plans and specifications for semipublic water supplies, or for public water supply projects in which the expenditure for the completed project shall not exceed $2,000. [for public water system projects for repair or maintenance of an existing system that cost less than $2,000, or for public water systems projects for the construction, repair or maintenance of a new facility that cost less than $25,000.] The construction or installation of any new facilities or works or the alteration or reconstruction of any existing facilities or works, in any public or semipublic water system, shall not begin until four (4) copies of the plans and specifications, or any changes thereto, together with design data as may be required for proper review of the plans, have been submitted to the cabinet and have been approved by the cabinet in writing. A complete package, including plans, specifications, necessary fees, letters and other information, shall be submitted in such form and content as may be specified by the cabinet, and shall be submitted at least thirty (30) days prior to the date on which action is requested of the cabinet. The front page of the plans shall contain the name of the water supply, its ownership, location by city and county, and the name of the person preparing the plans.

(c) The cabinet's review of plans shall be [is] limited to sanitary features of design and other features of public health significance and shall [does] not include an examination of structural, mechanical or electrical design or economic factors.

(d) The plans shall be drawn to scale and accompanied by proper specifications, so as to permit a comprehensive engineering review, and shall include, but not be limited to, the following:

1. If treatment facilities are involved, chemical analyses of the proposed raw water source or sources shall be performed and evaluated before final approval is granted;

2. A plan and sectional view with all necessary dimensions of the water treatment facilities;

3. A piping diagram showing all appurtenances, including treatment facilities, in sufficient detail, as well as pertinent elevation data, to permit a hydraulic analysis of the system; and

4. Specifications containing details on all treatment equipment, including catalog identification of pumps, chlorinators, chemical feeders and related equipment.

(6) Approval of final plans. If approved, one (1) set of plans and specifications stamped "approved" will be returned to the engineer or person who prepared them and one set will be returned to the water supply.

(7) Construction.

(a) During construction, a set of approved plans and specifications shall be available at the job site at all times. All work shall be performed in accordance with the approved plans and specifications.

(b) If the cabinet's representative observes work being performed in a manner which does not conform to the approved plans and specifications, the cabinet shall [will] notify the owner in writing [of any noncompliance].

(8) Final approval of facility. Upon completion of construction, the person who presented the plans shall certify in writing that the project has been completed in accordance with the "approved" plans and specifications. The public water supply shall operate the facility consistent with the approved plans and specifications.

(9) Expiration of approval. Unless construction is begun within one (1) year from date of approval, the approval shall expire. Extension of approval may be granted upon written request to the cabinet.

(10) All plans and specifications submitted pursuant to this regulation shall be consistent with "Recommended Standards for Water Works", "General Design Criteria for Surface and Groundwater Supplies", and "Water Policy Memorandum Number 84-02, General Guidelines for Conducting Stream Studies for Wastewater Discharges Proposed Within Five Miles Upstream from Public Water Supply Sources, or for the Location of Public Water Supply Intakes Within Five Miles Downstream from Wastewater Discharges", which are incorporated by reference in Section 2 of this regulation.

Section 2. The following documents are hereby incorporated by reference and are available for public inspection and copying between 8:00 a.m. and 4:30 p.m., Monday through Friday, at the Division of Water, 18 Reilly Road, Frankfort Office Park, Frankfort, Kentucky 40601:

(1) Great Lakes Upper Mississippi River Board of State Public Health & Environmental Managers "Recommended Standards for Water Works," 1987, published by and available from Health Research Inc., Health Education Services Division, P.O. Box 7126, Albany, New York 12224.

(2) "General Design Criteria for Surface and Ground Water Supplies", July 1990, which is published by and may be obtained from the Division of Water; and

(3) "Water Policy Memorandum number 84-02, General Guidelines for Conducting Stream Studies for Wastewater Discharges Proposed within Five Miles Upstream from Public Water Supply Sources, or for the Location of Public Water Supply Intakes within Five Miles Downstream from Wastewater Discharges", 1984, which is published by and may be obtained from the Division of Water.

Section 3. Severability. If any provision of this regulation is set aside by a court of competent jurisdiction, the remainder of this regulation remains in effect.

[Section 4. Repeal. 401 KAR 6:015, Public and semipublic water supplies, is hereby repealed.]

FRANK DICKERSON, Commissioner
CARL H. BRADLEY, Secretary
APPROVED BY AGENCY: September 5, 1990
FILED WITH LRC: September 5, 1990 at 11 a.m.

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

401 KAR 38:040. Changes to permits; expiration of permits.

RELATES TO: KRS 224.033, 224.036, 224.071, 224.087, 224.830 through 224.877, 224.994

STATUTORY AUTHORITY: KRS Chapter 13A, 224.033, 224.866

NECESSITY AND FUNCTION: KRS 224.842 and 224.866 require any person who treats, stores, recycles or disposes of hazardous waste to first obtain a hazardous waste site or facility permit from the cabinet. This chapter establishes the permitting process for hazardous waste sites or facilities. An overview of the permit program is found in the Necessity and Function of 401 KAR 38:010. This regulation establishes permitting standards on duration, termination, renewal and deadlines.

Section 1. Transfer of Permits. A permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued (under Section 2(2)(b) of this regulation) or a minor modification made (under Section 3(4) of this regulation) to identify the new permittee and incorporate such other requirements as may be necessary under KRS Chapter 224 and the waste management regulations.

Section 2. Major Modification or Revocation and Reissuance of Permits. When the cabinet receives any information (for example, if the cabinet inspects the facility, receives information submitted by the permittee as required in the permit under Section 1 of 401 KAR 38:030, receives a request for modification or revocation and reissuance under Section 2 of 401 KAR 38:050, or conducts a review of permit file), the cabinet may determine whether or not one (1) or more of the causes listed in subsections (1) and (2) of this section for modification or revocation and reissuance or both exist. If cause exists, the cabinet may modify or revoke and reissue the permit accordingly, subject to the limitations of subsection (3) of this section and may request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened. If a permit is revoked and reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term (see Section 2(4) of 401 KAR 38:050. If cause does not exist under this section or Section 3 of this regulation, the cabinet shall not modify or revoke and reissue the permit. If a permit modification satisfies the criteria in Section 3 of this regulation for "minor modifications," the permit may be modified without a draft permit or public review. Otherwise, a draft permit must be prepared and other procedures in 401 KAR 38:050 and, if applicable, 401 KAR 38:500 followed.

(1) Causes for modification. Paragraphs (a) through (d) of this subsection are causes for modification but not revocation and reissuance of permits. Paragraphs (a) through (d) of this subsection may be causes for revocation and reissuance as well as modification, when the permittee requests or agrees.

(a) Alterations. There are material and substantial alterations or additions to the permitted hazardous waste site or facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit.

(b) Information. The cabinet has received new information. Permits [for wells] may be modified during their terms for this cause only if the information was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and would have justified the application of different permit conditions at the time of issuance.

(c) New <u>statutory requirements or</u> regulations. The standards or regulations on which the permit was based have been changed by <u>statute, through</u> promulgation of new or amended standards or regulations, or by judicial decision after the permit was issued. Except as provided in paragraph (e) of this subsection, permits may be modified during their terms for this cause as follows:

1. <u>The cabinet may modify the permit when the standards or regulations on which the permit was based have been changed by statute or amended standards or regulations.</u> [For promulgation of new or amended standards or regulations, when:]

<u>2. Permittee may request modification when:</u>

a. The permit condition [requested] to be modified was based on an effective hazardous waste management regulation; and

b. The cabinet has revised, withdrawn, or modified that portion of the regulation on which the permit condition was based; <u>or</u> [and]

c. A permittee requests modification in accordance with Section 2 of 401 KAR 38:050 within ninety (90) days after notice of the action on which the request is based.

<u>3.</u> [2.] For judicial decisions, a court of competent jurisdiction has remanded and stayed cabinet promulgated regulations, if the remand and stay concern that portion of the regulations [or guidelines] on which the permit condition was based <u>or if</u> [and] a request is filed by the permittee in accordance with Section 2 of 401 KAR 38:050 within ninety (90) days of judicial remand.

(d) Compliance schedules. The cabinet determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, materials shortage, or other events over which the permittee has little or no control and for which there is no reasonably available remedy (see also Section 3 of this regulation on minor modifications).

(e) The cabinet may modify a permit:

1. When modification of a closure plan is required under 401 KAR 34:070, Section 3(2) or 4(2).

2. When the cabinet receives notification of expected closure under 401 KAR 34:070, Section 4, and finds that any of the following previously granted permit conditions are no longer warranted:

a. Extension of the ninety (90) or 180 day periods under 401 KAR 34:070, Section 4;

b. Modification of an extended postclosure care period under 401 KAR 34:070, Section 7;

c. Continuation of security requirements under 401 KAR 34:070, Section 7(2); or

d. Permission to disturb the integrity of the containment system under 401 KAR 34:070, Section 7(3).

3. When the permittee has filed a request under 401 KAR 34:120, Section 4 for a variance to the level of financial responsibility or when the <u>cabinet</u> [secretary] demonstrates under 401 KAR 34:120, Section 5 that an upward adjustment of the level of financial responsibility is required.

4. When the corrective action program specified in the permit under Section 11 of 401 KAR 34:060 has not brought the regulated unit into compliance with the groundwater protection

standard within a reasonable period of time.

5. To include a detection monitoring program meeting the requirements of Section 9 of 401 KAR 34:060, when the owner or operator has been conducting a compliance monitoring program under Section 10 of 401 KAR 34:060 or a corrective action program under Section 11 of 401 KAR 34:060 and the compliance period ends before the end of the postclosure care period for the unit.

6. When a permit requires a compliance monitoring program under Section 10 of 401 KAR 34:060, but monitoring data collected prior to permit issuance indicate that the facility is exceeding the groundwater protection standard.

7. To include the conditions applicable to units at a facility that were not previously included in the site or facility's permit.

8. When a land treatment unit is not achieving complete treatment of hazardous constituents under its current permit conditions.

9. To include conditions applicable in new or amended standards or regulations.

10. When modification is necessary to protect the public health or the environment.

11. To include conditions applicable as the result of a hearing or enforcement action as specified in 401 KAR Chapter 40.

(f) Not withstanding any other provision in this section, when a permit for a land disposal facility is reviewed by the cabinet under Section 5(4) of this regulation, the cabinet shall modify the permit as necessary to assure that the facility continues to comply with the currently applicable requirements in 401 KAR Chapters 30 through 39.

(2) Causes for modification or revocation and reissuance. The following are causes to modify or, alternatively, revoke and reissue a permit:

(a) Cause exists for termination under Section 4 of this regulation and the cabinet determines that modification or revocation and reissuance is appropriate.

(b) The cabinet has received notification (as required in the permit in Section 1(12)(c) of 401 KAR 38:030 of a proposed transfer of the permit.

(c) Cause exists for termination under Section 2(1)(e) and (f) of this regulation, and the cabinet determines that modification or revocation and reissuance is appropriate.

(3) Facility siting. Suitability of the facility location will not be considered at the time of permit modification or revocation and reissuance unless new information or standards indicate that a threat to human health or the environment exists which was unknown at the time of permit issuance.

(4) Major modifications that include changes in ownership and operational control of a facility may be made if the new owner or operator submits a revised permit application no later than ninety (90) days prior to the scheduled change. A change in ownership or operational control includes a transfer of twenty-five (25) or more percent interest in the corporation, joint venture, partnership, proprietorship, or entity designated to own or operate the hazardous waste site or facility. When a transfer of ownership or operational control of a site or facility occurs, the old owner or operator shall comply with the requirements of 401 KAR 34:080 through 401 KAR 34:176 (financial requirements), until the new owner or operator has demonstrated to the cabinet that he is complying with the requirements in 401 KAR 34:080 through 401 KAR 34:176. The new owner or operator shall demonstrate compliance with the requirements in 401 KAR 34:080 through 401 KAR 34:176 within six (6) months of the date of the change in the ownership or operational control of the site or facility. Upon demonstration to the cabinet by the new owner or operator of compliance with the requirements in 401 AKR 34:080 through 401 KAR 37:176, the cabinet shall notify the old owner or operator in writing that he no longer needs to comply with the requirements in 401 KAR 34:080 through 401 KAR 34:176 as of the date of demonstration. Past performance as specified in 401 KAR 38:090, Section 2(20) shall be considered. **The provisions set forth in Section 3 of this regulation as amended on March 10, 1988, shall apply to requests for modification received by the cabinet prior to November 14, 1990, and including all additional information and documentation submitted subsequent to November 14, 1990, as requested by the cabinet.**

Section 3. Minor Modifications of Permits. Upon consent of the permittee, the cabinet may modify a permit to make the corrections or allowances for changes in the permitted activity listed in this section, without following the procedures of 401 KAR 38:050. Any permit modification not processed as a minor modification under this section shall [must] be made for cause and with a 401 KAR 38:050 draft permit, public notice as required in Section 2 of this regulation and, if applicable, compliance with 401 KAR 38:500 shall [must] be demonstrated. Minor modifications may only:

(1) Correct typographical errors;

(2) Require more frequent monitoring or reporting by the permittee;

(3) Change an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement; or

(4) Allow for a name change where [in] ownership or operational control of a site or facility is not affected. [where the cabinet determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility between the current and new permittees has been submitted to the cabinet.] Name changes [in the ownership or operational control] of a site or facility may be made if the [new] owner or operator submits a revised permit application no later than ninety (90) days prior to the scheduled change. When a name change [transfer of ownership or operational control] of a site or facility occurs, compliance [the old owner or operator shall comply] with the requirements of 401 KAR 34:080 through 401 KAR 34:176 (financial requirements), shall be demonstrated by revising the financial instrument to reflect the correct facility name. [until the new owner or operator has demonstrated to the cabinet that he is complying with the requirements in 401 KAR 34:080 through 401 KAR 34:176. The new owner or operator must demonstrate compliance with the requirements in 401 KAR 34:080 through 401 KAR 34:176 within six (6) months of the date of the change in the ownership or operational control of the site or facility. Upon demonstration to the cabinet by the new owner or operator of

compliance with the requirements in 401 KAR 34:080 through 401 KAR 34:176, the cabinet will notify the old owner or operator in writing that he no longer needs to comply with the requirements in 401 KAR 34:080 through 401 KAR 34:176 as of the date of demonstration.]

(5) Change the lists of facility emergency coordinators or equipment in the permit's contingency plan;

(6) Change estimates of maximum inventory under Section 3(1)(b) of 401 KAR 34:070; or

(7) Change estimates of expected year of closure or schedules for final closure under Section 3(1)(d) of 401 KAR 34:070;

(8) Approve periods longer than ninety (90) days or 180 days under Section 4(1) and (2) of 401 KAR 34:070.

(9) Change the ranges of the operating requirements set in the permit to reflect the results of the trial burn, provided that the change is minor.

(10) Change the operating requirements set in the permit for conducting a trial burn, provided that the change is minor.

(11) Grant one (1) extension of the time period for determining operational readiness following completion of construction, for up to 720 hours operating time for treatment of hazardous waste.

(12) Change the treatment program requirements for land treatment units under Section 2 of 401 KAR 34:220 to improve treatment of hazardous constituents, provided that the change is minor.

(13) Change any conditions specified in the permit for land treatment units to reflect the results of field tests or laboratory analyses used in making a treatment demonstration in accordance with Section 8 of 401 KAR 38:080, if [provided that] the change is minor.

(14) Allow a second treatment demonstration for land treatment to be conducted when the results of the first demonstration have not shown the conditions under which the waste or wastes can be treated completely as required by Section 3(1) of 401 KAR 34:220, provided the conditions of the second demonstration are substantially the same as the conditions for the first demonstration.

(15) Allow treatment of hazardous wastes not previously specified in the permit if:

(a) The hazardous waste has been prohibited from one (1) or more methods of land disposal under 401 KAR 37:030 or KRS 224.866 [and treatment standards have been established under 401 KAR 37:040];

(b) Treatment is in accordance with Section 4 of 401 KAR 37:010 (if applicable), Section 3 of 401 KAR 37:010; and [the standards established under Section 2 of 401 KAR 37:040, or a variance established under Section 5 of 401 KAR 37:040;]

1. Treatment is in accordance with applicable standards established under 401 KAR 37:040, Section 3, 4, and 5; or

2. Where no treatment standards have been established, treatment renders the waste no longer subject to the applicable prohibitions set forth in Section 4 of 401 KAR 37:030 and KRS 224.866.

(c) Handling and treatment of the restricted waste shall [will] not present risks substantially different from those of wastes listed in the permit; and

(d) Cabinet approval of a minor permit modification request is granted. No permit changes can occur except for the addition of new waste codes and administrative or technical changes necessary to handle new wastes. Changes in treatment processes or physical equipment may not be made under this subsection.

Section 4. Termination of Permits. (1) The cabinet may terminate a permit during its term or deny a permit renewal application for the following causes:

(a) Noncompliance by the permittee with any condition of the permit;

(b) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time;

(c) A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination; or

(d) A violation of any requirement of KRS Chapter 224 or the respective regulations promulgated pursuant thereto (including 401 KAR 40:040).

(2) The cabinet shall follow the applicable procedures in this regulation and in 401 KAR 38:050 and 401 KAR Chapter 40 in terminating any permit under this section.

Section 5. Duration of Permit. (1) Term of permit. Hazardous waste site or facility permits shall be effective for a fixed term not to exceed ten (10) years. (See also Section 5 of 401 KAR 38:060, Interim permits for UIC wells.)

(2) Modification of term of permit. Except as provided in Section 6 of this regulation, the term of a permit shall not be extended by modification beyond the maximum duration specified in subsection (1) of this section.

(3) Reduced term of permit. The cabinet may issue any permit for a duration that is less than the full allowable term under subsection (1) of this section.

(4) Each permit for a land disposal facility shall be reviewed by the cabinet five (5) years after the date of permit issuance or reissuance and shall be modified as necessary, as provided in Section 2 of this regulation.

(5) A permit for the nerve agents specified in KRS 224.865 shall be reviewed by the cabinet five (5) years after the date of permit issuance or reissuance and shall be modified as necessary, as provided in Section 2 of this regulation.

Section 6. Continuation of Expiring Permits. (1) The conditions of an expired permit continue in force until the effective date of a new permit if:

(a) The permittee has submitted a timely application under 401 KAR 38:090 and 401 KAR 38:100 and the applicable requirements in 401 KAR 38:150 through 401 KAR 38:210 and which is a complete (under Section 1(3) of 401 KAR 38:070) application for a new permit, paid the appropriate fees due (under 401 KAR Chapter 39); and

(b) The cabinet through no fault of the permittee, does not issue a new permit with an effective date on or before the expiration date of the previous permit (for example, when issuance is impracticable due to time or resources constraints).

(2) Effect. Permits continued under this

section remain fully effective and enforceable.

(3) Enforcement. When the permittee is not in compliance with the conditions of the expiring or expired permit, the cabinet may choose to do any or all of the following:

(a) Initiate enforcement action based upon the permit which has been continued;

(b) Issue a notice of intent to deny the new permit under Section 3 of 401 KAR 38:050. If the permit is denied, the owner or operator would then be required to cease the activities authorized by the continued permit or be subject to enforcement action for operating without a permit;

(c) Issue a new permit under 401 KAR 38:050 with appropriate conditions; or

(d) Take other actions authorized by 401 KAR Chapters 30 through 40.

(4) State continuation. As provided in 40 CFR 270.51(d), an EPA issued permit shall not continue in force beyond its expiration date under federal law if at that time the cabinet is the RCRA permitting authority.

CARL H. BRADLEY, Secretary
FRANK DICKERSON, Commissioner
APPROVED BY AGENCY: September 5, 1990
FILED WITH LRC: September 5, 1990 at 3 p.m.

COMPILER'S NOTE: The following regulations were amended by the promulgating agency and the Administrative Regulation Review Subcommittee on November 7 & 8, 1990.

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

401 KAR 59:021. New municipal solid waste incinerators.

RELATES TO: KRS 224.320, 224.330, 224.340, [224.855,] E.O. 90-68, 40 CFR 60.13 (1990), 40 CFR 60, Appendix A, Methods 1, 2, 3, 5, 6, 6A, 6C, 7, 7E, 9, 10, and 19 (1990), 40 CFR 60, Appendix B, Performance Specifications 1, 2, 3, and 4 (1990)

STATUTORY AUTHORITY: KRS 224.033, 40 CFR 60.13 (1990), 40 CFR 60, Appendix A, Methods 1, 2, 3, 5, 6, 6A, 6C, 7, 7E, 9, 10, and 19 (1990), 40 CFR 60, Appendix B, Performance Specifications 1, 2, 3, and 4 (1990)

NECESSITY AND FUNCTION: KRS 224.033 requires the Natural Resources and Environmental Protection Cabinet to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides standards of performance for new municipal solid waste incinerators.

Section 1. Definitions. As used in this regulation, all terms not defined in this section shall have the meaning given them in 401 KAR 50:010.

(1) "Affected facility" means each municipal solid waste incinerator unit for which construction, modification, or reconstruction is commenced on or after December 20, 1989.

(2) "Municipal solid waste incinerator" or "municipal solid waste incinerator unit" or "MSWI" or "MSWI unit" means a device that combusts material, which if included in the waste stream, would be municipal solid waste. This includes but is [including, but] not limited to, field-erected incinerators (with or without heat recovery), modular incinerators (starved air or excess air), boilers (i.e., steam generating units), and furnaces (whether suspension-fired, grate-fired, mass-fired, or fluidized bed-fired).

(3) "ASME" means the American Society of Mechanical Engineers.

(4) "Biologicals" means a biological product used in the prevention or treatment of disease [noxious organisms].

(5) "Bubbling fluidized bed incinerator" means a fluidized bed incinerator in which the majority of the bed material remains in the primary combustion zone.

(6) "Chief facility operator" means the person in direct charge and control of the operation of a MSWI and who is responsible for daily on-site supervision, technical direction, management, and overall performance of the facility.

(7) "Circulating fluidized bed incinerator" means a fluidized bed incinerator in which the majority of the bed material is carried out of the primary combustion zone and is transported back to the primary zone through a recirculation loop.

(8) "[Coal and] Refuse-derived fuel cofired incinerator" or "[coal and] RDF cofired incinerator" means an incinerator that is designed to fire [coal and] refuse-derived fuel simultaneously with other fuels.

(9) "Commercial solid waste" means all types of solid waste generated by stores, offices, restaurants, warehouses, and other nonmanufacturing activities, excluding household and industrial wastes. Commercial solid waste includes waste from medical facilities, schools, and other institutions that is not medical waste.

(10) "Contained landfill" has the meaning given it in 401 KAR 30:010.

(11) "Continuous emission monitoring system" or "CEMS" means a monitoring system for continuously measuring and recording the emissions of a pollutant from an affected facility.

(12) "Daily average" means the average of all hourly emission rates when the affected facility is operating and firing municipal solid waste measured between 12 midnight and the following midnight.

(13) "Dioxin or furan" means total tetra- through octa-chlorinated dibenzo-p-dioxins and tetra- through octa-chlorinated dibenzofurans.

(14) "Ferrous metals" means metals and alloys containing iron. Ferrous metals include, but are not limited to, pieces of scrap metal and household appliances made of iron-containing metals, including stoves, refrigerators, air conditioners, and other appliances. Ferrous metals shall not include whole automobiles or other vehicles or vehicle bodies.

(15) "Field-erected" means assembled from components at a final site of operation.

(16) "Four (4) hour block average" means the average of all hourly emission rates when the affected facility is operating and combusting municipal solid waste measured over four (4) hour periods of from 12 midnight to 4 a.m., 4 a.m. to 8 a.m., 8 a.m. to 12 noon, 12 noon to 4 p.m., 4 p.m. to 8 p.m., 8 p.m. to 12 midnight.

(17) "Hazardous waste" has the meaning given it in KRS 224.005 [means waste that has the

characteristics identified in 401 KAR 31:030].

(18) "Household battery" means a dry cell battery.

(19) "Household solid waste" means solid waste, including garbage and trash generated by single and multiple family residences, hotels, motels, bunkhouses, ranger stations, crew quarters, and recreational areas such as picnic areas, parks, and campgrounds.

(20) "Industrial waste" means a liquid, gaseous, or solid waste substance resulting from a process of industry, manufacture, trade, or business, or from the development, process, or recovery of a natural resource.

(21) "Large MSWI plant" means a MSWI plant with a MSWI plant capacity greater than 225 megagrams per day (250 tons per day) of municipal solid waste.

(22) "Mass burn refractory incinerator" means an incinerator that combusts waste in a refractory wall furnace.

(23) "Mass burn rotary waterwall incinerator" means an incinerator that combusts waste in a cylindrical rotary waterwall furnace.

(24) "Mass burn waterwall incinerator" means an incinerator that combusts waste in a conventional waterwall furnace.

(25) "Maximum MSWI unit load" means the maximum one (1) hour MSWI load achieved when compliance with all applicable regulations is demonstrated or during a subsequent test demonstrating compliance at a higher unit load.

(26) "Medical waste" means:

[(a) Wastes contaminated by patients who are isolated due to communicable disease;]

(a) [(b)] Cultures and stocks of infectious agents, including specimen cultures collected from medical and pathological laboratories, cultures and stocks of infectious agents from research and industrial laboratories, wastes from the production of biologicals, discarded live and attenuated vaccines, and culture dishes and devices used to transfer, inoculate, and mix cultures;

(b) [(c)] Waste human blood and blood products such as serum, plasma, and other blood components;

(c) [(d)] Pathological wastes, such as tissues, organs, body parts, and body fluids that are removed during surgery and autopsy;

(d) [(e)] All discarded sharps, including but not limited to [e.g.,] hypodermic needles, syringes, Pasteur pipettes, broken glass, scalpels, scalpel blades, glass vials, etc., used in patient care, autopsy, embalming, or which have come into contact with infectious agents during use in medical, research, or industrial laboratories;

(e) [(f)] Carcasses and [,] body parts [, and bedding] of animals that were exposed to pathogens in research, in the production of biologicals, or in the in vivo testing of pharmaceuticals; and

(f) [(g)] Other wastes as may be designated by a permit issued by the Division for Air Quality.

(27) "Modular excess air incinerator" means an incinerator that combusts waste and that is not field-erected and has multiple combustion chambers, all of which are designed to operate at conditions with combustion air amounts in excess of theoretical air requirements.

(28) "Modular starved air incinerator" means an incinerator that combusts waste and that is not field-erected and has multiple combustion chambers in which the primary combustion chamber is designed to operate at substoichiometric conditions.

(29) "Multiple chamber incinerator" means an incinerator consisting of at least two (2) refractory lined combustion chambers (primary and secondary) in series, physically separated by refractory walls, and interconnected by gas passage ports or ducts.

(30) "Municipal solid waste" or "MSW" means household solid waste and commercial solid waste. Medical waste shall not be considered to be MSW, but may be regulated by other regulations of the Division for Air Quality, including but not limited to 401 KAR 59:023 or Title 401, Chapter 63.

[(31) "Municipal solid waste incinerator" or "MSWI" means a type of MSWI that combusts MSW exclusively.]

(31) [(32)] "Normal" means a volumetric measurement at thirty-two (32) degrees Fahrenheit and one (1) atmosphere.

(32) [(33)] "Particulate matter" means total particulate matter emitted from MSWI units.

(33) [(34)] "Particulate matter carry-over" means particulate matter which is passed from the primary chamber of an incinerator into the flue gas stream.

(34) [(35)] "Processed MSW or refuse-derived fuel" or "processed MSW or RDF" means MSW or refuse-derived fuel that has been processed to separate materials for recovery prior to combustion in a MSWI unit. MSW or RDF shall be considered to be processed MSW or RDF if an overall forty (40) percent or greater reduction by weight (annual average) of MSW is achieved through the separation of recoverable materials. A maximum of fifteen (15) [ten (10)] percent reduction (by weight) of the overall MSW shall be attributed to separation of yard waste. The forty (40) percent or greater overall reduction requirement may be achieved by on-site mechanical separation, on-site manual separation, off-site mechanical separation, off-site manual separation, or a curbside source reduction or materials separation (recycling) program, or a combination thereof.

(35) [(36)] "RDF spreader stoker" means a steam generating unit that combusts RDF in a semisuspension firing mode using air-fed distributors.

(36) [(37)] "Recoverable materials" means paper, paperboard, ferrous metals, nonferrous metals, glass, plastics, household batteries, and yard waste.

(37) [(38)] "Refuse-derived fuel" or "RDF" means a type of MSW produced by processing MSW through shredding and size classification. This includes all classes of RDF including low density fluff RDF through densified RDF fuel pellets.

(38) [(39)] "Same location" means the same or contiguous property that is under common ownership or control, including properties that are separated only by a street, road, highway, or other public right-of-way. Common ownership or control includes properties that are owned, leased, or operated by the same entity, parent entity, subsidiary, subdivision, or a combination thereof, including a municipality or other governmental unit, or a quasi-governmental authority (e.g., a public utility district or waste management district).

(39) [(40)] "Shift supervisor" means the person in direct charge and control of the operation of a MSWI and who is responsible for

on-site supervision, technical direction, management, and overall performance of the facility during an assigned shift.

(40) [(41)] "Small MSWI plant" means a MSWI plant with a MSWI plant capacity of greater than 500 pounds per hour but less than or equal to 225 megagrams per day (250 tons per day) of municipal solid waste.

(41) [(42)] "Solid waste" has the meaning given it in KRS 224.005.

(42) [(43)] "Solid waste burnout" means the percent [degree] of matter completely burned in the primary chamber of a MSWI.

(43) [(44)] "Standard" means a volumetric measurement at sixty-eight (68) degrees Fahrenheit and and one (1) atmosphere.

(44) [(45)] "MSWI acid gases" means sulfur dioxide and hydrogen chloride gases emitted from MSWI units.

(45) [(46)] "MSWI metals" means condensible metals emitted from MSWI units. For the purpose of this regulation, particulate matter shall serve as a surrogate for the measurement and control of MSWI metals.

(46) [(47)] "MSWI organics" means organic compounds emitted from MSWI units and includes dioxins or furans. For the purpose of this regulation, dioxin or furan shall serve as a surrogate for the measurement and control of MSWI organics.

(47) [(48)] "MSWI plant" means one (1) or more MSWI units at the same location for which construction, modification, or reconstruction is commenced on or after December 20, 1989.

(48) [(49)] "MSWI plant capacity" means the aggregate MSWI unit capacity of all MSWI units at a MSWI plant. MSWI units for which construction, modification, or reconstruction is commenced before December 20, 1989, shall not be included for determining applicability under this regulation.

(49) [(50)] "MSWI unit capacity" means the maximum designed charging rate of the waste for an individual MSWI.

(50) [(51)] "MSWI unit load" means volume of steam produced expressed in kilograms per hour (pounds per hour) of steam.

(51) [(52)] "Uncontrolled hydrogen chloride emission rate" means the hydrogen chloride emission rate that would occur from combustion of MSW [solid waste] in the absence of hydrogen chloride emissions control.

(52) [(53)] "Uncontrolled sulfur dioxide emission rate" means the sulfur dioxide emission rate that would occur from combustion of MSW [solid waste] in the absence of sulfur dioxide emissions control.

(53) [(54)] "Unprocessed MSW or RDF" means MSW or RDF that has not been processed to separate materials for recovery prior to combustion or for which less than a forty (40) percent reduction by weight (annual average) of MSW is achieved.

(54) [(55)] "Vehicle battery" means a wet lead-acid battery.

(55) [(56)] "Waste management district" has the meaning given it in KRS 224.005.

(56) [(57)] "Yard waste" means vegetative matter removed as a result of outdoor maintenance practices from residential and commercial yards, municipal parks, gardens, golf courses, and other similar areas, and includes, but is not limited to, grass trimmings, tree branches, straw, and leaves.

Section 2. Applicability. (1) This regulation shall apply to each affected facility which means each MSWI unit for which construction, modification, or reconstruction is commenced on or after December 20, 1989. [Coal and] RDF cofired incinerators which combust less than or equal to twenty (20) percent RDF shall be exempt from this regulation. Incinerators which combine and combust municipal solid waste[, hazardous waste,] and medical waste shall be subject to 401 KAR 59:023.

(2) The physical or operational changes made to an existing MSWI unit to comply with 401 KAR 61:011 shall not be considered a modification or reconstruction and shall not subject the existing MSWI unit to this regulation.

(3) Owners or operators of MSWI plants with a plant capacity of 500 pounds per hour or less [and owners or operators of MSWI units which combust untreated or kiln-dried wood wastes or coal wastes exclusively] shall be exempt from Sections 3 to 11 [12] of this regulation. However, these facilities shall comply with the following requirements:

(a) Emissions discharged into the atmosphere shall not exhibit greater than ten (10) percent opacity. Method 9, which has been filed by reference in 401 KAR 50:015, shall be used to determine compliance with the opacity standard.

(b) Other regulatory requirements including but not limited to 401 KAR 53:010 and Title 401, Chapter 63.

(4) Emission limitations or control requirements imposed by any other regulation of the Division for Air Quality or the Division of Waste Management may impose more stringent requirements than those imposed by this regulation.

(5) Siting criteria. No owner or operator of an affected facility subject to 401 KAR 47:030 shall construct or operate the affected facility in a manner which will violate the requirements of that regulation.

Section 3. Standards for MSWI Metals. On and after the date on which the initial performance test is completed or is required to be completed by Section 10 of this regulation, no owner or operator of an affected facility shall cause or allow to be discharged into the atmosphere from the affected facility:

(1) Emissions that contain particulate matter in excess of thirty-four (34) milligrams per dry standard cubic meter (0.015 grains per dry standard cubic foot), corrected to seven (7) percent oxygen (dry basis).

(2) Emissions that exhibit greater than ten (10) percent opacity.

Section 4. Standards for MSWI Organics. On and after the date in which the initial performance test is completed or is required to be completed by Section 10 of this regulation, no owner or operator of an affected facility:

(1) Located within a small MSWI plant shall cause or allow to be discharged into the atmosphere from that affected facility emissions that contain dioxin or furan emissions that exceed seventy-five (75) nanograms per normal cubic meter (thirty (30) grains per billion standard cubic feet), corrected to seven (7) percent oxygen (dry basis)[, except as provided under subsection (2) of this section];

[(2) Combusting RDF and located within a small SWI plant shall cause or allow to be discharged

into the atmosphere from that affected facility emissions that contain dioxin or furan emissions that exceed 250 nanograms per normal cubic meter (100 grains per billion standard cubic feet), corrected to seven (7) percent oxygen (dry basis);] or

(2) [(3)] Located within a large MSWI plant shall cause or allow to be discharged into the atmosphere from that affected facility emissions that contain dioxin or furan emissions that exceed thirty (30) [five (5)] nanograms per normal cubic meter (fourteen (14) [two (2)] grains per billion standard cubic feet), corrected to seven (7) percent oxygen (dry basis).

Section 5. Standards for MSWI Acid Gases. (1) Small MSWI plant. On and after the date on which the initial performance test is completed or is required to be completed by Section 10 of this regulation, no owner or operator of an affected facility located within a small MSWI plant shall cause or allow to be discharged into the atmosphere from that affected facility emissions that contain:

(a) Sulfur dioxide in excess of fifty (50) percent of the uncontrolled sulfur dioxide emission rate (fifty (50) percent reduction by weight) or thirty (30) parts per million by volume, corrected to seven (7) percent oxygen (dry basis), whichever is less stringent.

(b) Hydrogen chloride in excess of twenty (20) percent of the uncontrolled hydrogen chloride emission rate (eighty (80) percent reduction by weight) or twenty-five (25) parts per million by volume, corrected to seven (7) percent oxygen (dry basis), whichever is less stringent.

(2) Large MSWI plant. On and after the date on which the initial performance test is completed or is required to be completed by Section 10 of this regulation, no owner or operator of an affected facility located within a large MSWI plant shall cause or allow to be discharged into the atmosphere from that affected facility emissions that contain:

(a) Sulfur dioxide in excess of fifteen (15) percent of the uncontrolled sulfur dioxide emission rate (eighty-five (85) percent reduction by weight) or thirty (30) parts per million by volume, corrected to seven (7) percent oxygen (dry basis), whichever is less stringent.

(b) Hydrogen chloride in excess of five (5) percent of the uncontrolled hydrogen chloride emission rate (ninety-five (95) percent reduction by weight) or twenty-five (25) parts per million by volume, corrected to seven (7) percent oxygen (dry basis), whichever is less stringent.

Section 6. Standard for Nitrogen Oxides. On and after the date on which the initial performance test is completed or is required to be completed by Section 10 of this regulation, no owner or operator of an affected facility located within a large MSWI plant shall cause or allow to be discharged into the atmosphere from that affected facility emissions that contain nitrogen oxides in excess of 120 parts per million by volume, corrected to seven (7) percent oxygen (dry basis).

Section 7. Standards for Carbon Monoxide. On and after the date on which the initial performance test is completed or is required to be completed by Section 10 of this regulation, no owner or operator of an affected facility shall cause or allow the facility to exceed the carbon monoxide standard for the applicable MSWI technology in Appendix A of this regulation.

Section 8. Standards for MSWI Operating Practices. (1) No owner or operator of an affected facility that generates steam shall cause or allow the facility to operate at a load level greater than 100 percent of the maximum MSWI unit load. An owner or operator of an affected facility who wishes to operate at a load level greater than the maximum MSWI unit load may do so by conducting all applicable compliance tests to establish a higher maximum MSWI unit load.

(2) No owner or operator of an affected facility shall burn MSW [solid waste] except in a multiple chamber incinerator with a solid hearth, or in a device found to be equally effective for the purpose of air contaminant control as determined by the cabinet.

(3) Temperature and residence time requirements for affected facilities equipped with a secondary chamber while combusting MSW:

(a) The incinerator secondary chamber shall be maintained at a minimum temperature of 982 degrees Celsius (1800 degrees Fahrenheit);

(b) The minimum secondary chamber residence time shall be one and zero-tenths (1.0) [two (2.0)] seconds; and

(c) The incinerator shall have interlocks or other process control devices to prevent operation of the incinerator until the conditions in paragraphs (a) and (b) of the subsection and subsection (4) of this section are assured.

(4) No owner or operator of an affected facility other than a facility using a wet scrubber as a particulate matter control device shall allow the temperature of the flue gases entering the particulate matter control device inlet to exceed 149 degrees Celsius (300 degrees Fahrenheit) while combusting MSW.

(5) Except as provided under subsection (8) [and (9)] of this section, on and after the date of initial start-up, no owner or operator of an affected facility shall cause or allow unprocessed MSW or RDF to be combusted in the facility.

(6) No owner or operator of an affected facility shall cause or allow yard waste or vehicle batteries to be combusted in the facility.

(7) Prior to initial start-up, the owner or operator of an affected facility shall establish a program which has been approved by the cabinet to remove household batteries from MSW [solid waste] prior to combustion. On and after the date of initial start-up, the owner or operator shall comply with the approved plan for removing household batteries from MSW [solid waste].

(8) The owner or operator of an affected facility may apply to the cabinet for a materials separation or combustion permit for any combustible material designated for separation under the materials separation plan under Section 11(3) of this regulation for which a market is unavailable for the separated material for 120 days. Approval by the cabinet shall not constitute or imply approval by the U.S. EPA. A market shall be considered to be unavailable for these combustibles if the cabinet determines that the cost of recycling

these combustibles exceeds the cost of landfilling them, and that the forty (40) percent reduction requirement for processed MSW or RDF cannot be obtained through separation of other recoverable materials. An owner or operator wishing to demonstrate that a recycling market is unavailable for recoverable combustibles shall submit a demonstration to the cabinet that includes a list of recycling facilities and facility officials contacted, a written discussion of why he was not able to obtain recycling for the combustible wastes, and [or] a list of landfill facilities and facility individuals contacted and a documented comparison of the costs of recycling versus the costs of landfilling. The MSWI owner or operator shall also provide to the cabinet the following certification: "I certify under penalty of law that a recycling market is unavailable for the following combustible recoverables as defined in 401 KAR 59:021, Section 1. I believe that the information submitted is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment."

(a) If a materials separation or combustion permit has been issued, separated material covered under the materials separation or combustion permit may be combusted in the affected facility and may be credited toward the overall forty (40) percent materials separation requirement for processed MSW or RDF.

(b) If a materials separation or combustion permit is granted by the cabinet, it shall be valid for a maximum of one (1) year. Reapplication may be made for subsequent materials separation or combustion permits. A reapplication shall be made within ninety (90) days before expiration of the permit and may be renewed for one (1) year.

(9) Owners or operators of affected facilities shall cause ash from MSWI units to be tested to determine the toxicity of the ash, using tests required in Title 401, Chapter 31. Ash which is determined to be a hazardous waste shall be disposed of according to the regulations of the Division of Waste Management. Ash which is determined to be not hazardous waste [which MSW in order to recover energy may request a reduction in the percent reduction requirements of subsection (5) of this section. The request shall demonstrate that a forty (40) percent material reduction will significantly decrease the amount of energy recovered in the combustion process, thereby rendering the MSW-to-energy operation technically or economically infeasible. The request shall propose and justify a site-specific alternative percent reduction. If the request is approved by the cabinet, the owner or operator shall comply with the site-specific alternative.

(10) Ash resulting from the combustion of solid waste] shall be disposed of in a contained landfill.

(10) Owners or operators of affected facilities that receive MSW from generators that are noncontiguous to the incineration site shall comply with the operating requirements for contained landfills in 401 KAR 48:090, Section 2.

(11) Owners or operators of affected facilities shall comply with the design requirements for contained landfills in 401 KAR 48:070, Section 15.

Section 9. Operator Certification and Training. (1) Within twenty-four (24) months from the date that ASME adopts a certification program for municipal solid waste combustor (incinerator) unit operators, each facility operator and shift supervisor of an affected facility shall obtain and keep current either a provisional or operator certification from ASME.

(2) No [The] owner or operator of an affected facility shall cause or allow an affected facility to be operated unless an ASME certified shift supervisor or ASME certified chief facility operator is [to be] on duty at the affected facility at all times during periods of MSWI unit operation. This requirement shall take effect twenty-four (24) months after the date that ASME adopts a certification program for municipal solid waste combustor (incinerator) unit operators.

(3) The owner or operator of an affected facility shall develop and update on a yearly basis a site-specific operation manual that shall at a minimum, address the following elements of MSWI unit operation:

(a) Summary of the applicable standards under this regulation;

(b) Description of basic comubstion theory applicable to a MSWI unit;

(c) Procedures for receiving, handling, and feeding MSW [solid waste];

(d) MSWI unit start-up, shutdown, and malfunction procedures;

(e) Procedures for maintaining proper comubstion air supply levels;

(f) Procedures for operating a MSWI unit within the standards established under this regulation;

(g) Procedures for responding to periodic upset or off-specification conditions;

(h) Procedures for minimizing particulate matter carry-over;

(i) Procedures for monitoring [the degree of] solid waste burnout;

(j) Procedures for handling ash;

(k) Procedures for monitoring MSWI unit emissions; and

(l) Reporting and recordkeeping procedures.

(4) The owner or operator of an affected facility shall establish a program for reviewing the operating manual annually with each person who has responsibilities affecting the operation of an affected facility including, but not limited to, chief facility operators, shift supervisors, control room operators, ash handlers, maintenance personnel, and crane or load handlers.

(5) The initial review of the operating manual, as specified under subsection (4) of this section, shall be conducted prior to assumption of responsibilities affecting MSWI unit operation by those persons required to undergo training under subsection (4) of this section. Subsequent reviews of the manual shall be carried out annually by each person required to undergo training.

(6) The operating manual shall be kept in a readily accessible location for all persons required to undergo training under subsection (4) of this section. The operating manual and records of training shall be available for inspection by the cabinet upon request.

(7) The owner or operator of each affected facility shall maintain documentation to support compliance with this section. The documentation shall be made available to the cabinet upon

request, and shall include, at a minimum, a description of the instruction given, the date of the instruction, [and] the signature of the person receiving the instruction, and copies of the certificates issued to the chief facility operator and shift supervisor documenting compliance with subsection (1) of this section.

Section 10. Compliance and Performance Testing. Within sixty (60) days after achieving the maximum production rate at which an affected facility will be operated, but not later than 180 days after initial start-up of the facility and at other times as may be required by the cabinet, the owner or operator of an affected facility shall conduct performance tests according to 401 KAR 50:045 and this section and shall furnish the cabinet a written report of the results of the performance tests. This section shall apply at all times, except for a period of one (1) hour for the start-up or shutdown of the affected facility and for a period not to exceed three (3) hours during the malfunction of an affected facility. Except as provided in 401 KAR 50:045, the following methods and procedures shall be used to determine compliance with Sections 3 to 8 of this regulation. 40 CFR 60.13, Methods 1, 2, 3, 5, 6, 6A, 6C, 7, 7E, 9, 10, and 19, and Performance Specifications 1, 2, 3, and 4 are adopted without change in Section 12 of this regulation. Kentucky Methods 23 and 26, Kentucky Specification 4A, and Kentucky Procedure 1 are incorporated by reference in Section 12 of this regulation. For each performance test, an owner or operator may request that compliance be determined using carbon dioxide measurements corrected to an equivalent of seven (7) percent oxygen. The relationship between oxygen and carbon dioxide levels for the affected facility shall be established during each initial performance test.

(1) MSWI metals [Particulate matter]. The following procedures and test methods shall be used to determine compliance with the standards for MSWI metals [particulate matter] in Section 3 of this regulation.

(a) Method 1 shall be used to select sampling sites and the number of traverse points. Method 2 shall be used to determine the stack gas velocity and volumetric flow rates.

(b) Method 3 shall be used for gas analysis.

(c) Method 5 shall be used for determining compliance with the particulate matter emission standard. The minimum sample volume shall be one and seven-tenths (1.7) cubic meters (sixty (60) cubic feet) [three and four-tenths (3.4) cubic meters (120 cubic feet)]. The temperature of the sample gas in the probe and filter holder shall be 120 + (plus or minus) 14°C (248 + (plus or minus) 25°F) [160 ± 14°C (320 ± 25°F)]. An oxygen or carbon dioxide measurement shall be obtained simultaneously with each Method 5 run.

(d) Both Method 9 and CEMS shall be used for determining compliance with the opacity standard. However, Method 9 results shall take precedence over CEMS data if [in the event of] concurrent readings occur.

(e) The owner or operator of an affected facility with a MSWI unit capacity greater than 500 lb per hr except for MSWI units equipped with a wet scrubber shall install, calibrate, maintain, and operate a CEMS for measuring opacity and shall record the output of the system.

(f) Following the date the initial performance test for the mass emission standard for particulate matter is completed or is required to be completed by this section, the owner or operator of an affected facility shall conduct a performance test for the mass emission standard for particulate matter on an annual basis (no more than twelve (12) calendar month following the previous compliance test). For an affected facility located within a small MSWI plant, if all three (3) performance tests for a three (3) year period indicate compliance with the particulate matter standard, the owner or operator may forego a performance test for the subsequent two (2) years. At a minimum, a performance test for particulate matter for an affected facility located within a small MSWI plant shall be conducted every third year (no more than thirty-six (36) month following the previous compliance test). If a performance test conducted every third year within a small MSWI plant indicates compliance with the mass emission particulate matter standard, the owner or operator may forego a performance test for an additional two (2) years.

(g) Following the date the initial performance test is completed or is required to be completed in this section, compliance with the opacity standard shall be determined by a six (6) minute average of the opacity readings obtained from the CEMS.

(2) MSWI organics [Dioxin or furan]. The following procedures and test methods shall be used to determine compliance with the standards for MSWI organics [dioxin for furan emissions] under Section 4 of this regulation.

(a) Kentucky Method 23 shall be used for determining compliance with dioxin or furan emission standards. The sampling time shall be four (4) hours and the minimum sampling volume shall be four and zero-tenths (4.0) cubic meters (140 cubic feet).

(b) Following the date of the initial performance test or the date on which the initial performance test is required to be completed by this section, the owner or operator of an affected facility shall conduct a performance test for dioxin or furan emissions on an annual basis (no more than twelve (12) calendar months following the previous performance test). For an affected facility located within a small MSWI plant, if all three (3) performance tests in a three (3) year period indicate compliance with the dioxin or furan emissions standard, the owner or operator may forego a performance test for the subsequent two (2) years. At a minimum, a performance test for dioxin or furan emissions at affected facilities located within a small MSWI plant shall be conducted every third year (no more than thirty-six (36) months following the previous performance test). If a performance test conducted every third year within a small MSWI plant indicates compliance with the dioxin or furan emissions standard, the owner or operator may forego conducting a performance test for an additional two (2) years.

(3) Sulfur dioxide. The following procedures and test methods shall be used for determining compliance with the sulfur dioxide standards under Section 5 of this regulation.

(a) The percentage reduction in the uncontrolled sulfur dioxide emissions ($\%P_{SO2}$) shall be computed using the formula in Appendix B of this regulation.

(b) Methods 6, 6A, or 6C, and 19 shall be used for determining the sulfur dioxide emission rate.

(c) The sulfur dioxide performance test shall be conducted over twenty-four (24) consecutive unit operating hours at maximum MSWI unit load. Compliance with the sulfur dioxide standard shall be determined using a daily average.

(d) The owner or operator of an affected facility with a MSWI unit capacity greater than 500 pound per hour shall install, calibrate, maintain, and operate a CEMS for measuring sulfur dioxide emissions discharged to the atmosphere and shall record the input and output of the system.

(e) Following the date of the initial performance test or the date on which the initial performance test is required to be completed by this section compliance with the sulfur dioxide standard shall be determined based on the arithmetic average of the hourly emission rates during each daily period measured between 12 midnight and the following midnight using CEMS inlet and outlet data, if compliance is based on a percentage reduction; or outlet data only if compliance is based on an emission limit.

(f) The one (1) hour averages required under paragraph (e) of this subsection shall be expressed in nanograms per hour (pounds per hour) and shall be used to calculate the daily average emission rates. The one (1) hour averages shall be calculated using the data points required under 40 CFR 60.13(h).

(g) For affected facilities which shall install CEMS, the span value of the CEMS at the inlet to the sulfur dioxide control device shall be 125 percent of the maximum estimated hourly uncontrolled sulfur dioxide emissions of the MSWI unit, and the span value of the CEMS at the outlet to the sulfur dioxide control device shall be fifty (50) percent of the maximum estimated hourly uncontrolled sulfur dioxide emissions of the MSWI unit.

(4) Hydrogen chloride. The following procedures and test methods shall be used for determining compliance with the hydrogen chloride standards under Section 5 of this regulation.

(a) The percentage reduction in the uncontrolled hydrogen chloride emissions ($\%P_{HCl}$) shall be computed using the formula in Appendix C of this regulation.

(b) Kentucky Method 26 shall be used for determining the hydrogen chloride emission rate.

(c) Following the date of the initial performance test or the date on which the initial performance test is required by this section, the owner or operator of an affected facility shall conduct a performance test for hydrogen chloride on an annual basis (no more than twelve (12) calendar months following the previous compliance test). For an affected facility located within a small MSWI plant, if all three (3) performance tests in a three (3) year period indicate compliance with the hydrogen chloride standard, the owner or operator may forego a performance test for the subsequent two (2) years. At a minimum a performance test for hydrogen chloride for an affected facility within a small MSWI plant shall be conducted every third year (no more than thirty-six (36) months following the previous compliance test). If a performance test conducted every third year at a small MSWI plant indicates compliance with the hydrogen chloride standard, the owner or operator may forego conducting a performance test for an additional two (2) years.

(5) Nitrogen oxides. The following procedures and test methods shall be used to determine compliance with the nitrogen oxides standard under Section 6 of this regulation.

(a) Methods 7 or 7E, and 19 shall be used for determining the nitrogen oxides emission rate.

(b) The initial performance test for nitrogen oxides required by this section for a large MSWI facility shall be conducted over twenty-four (24) consecutive hours of unit operation to determine compliance with the nitrogen oxides standard. CEMS data shall be used if required by paragraph (c) of this subsection. Compliance with the nitrogen oxides standard shall be determined using a daily average.

(c) The owner or operator of an affected facility with a MSWI unit capacity greater than 500 pound per hour which is subject to the nitrogen oxides emissions standard of Section 6 of this regulation shall install, calibrate, maintain, and operate a CEMS for measuring nitrogen oxides discharged to the atmosphere and shall record the output of the system.

(d) Following the initial performance test or the date on which the initial performance test is required to be completed by this section, compliance with the emission limits for nitrogen oxides required under Section 6 of this regulation shall be determined based on the arithmetic average of the hourly emission rates during each twenty-four (24) hour daily period measured between 12 midnight and the following midnight using CEMS data.

(e) The one (1) hour averages required by paragraph (d) of this subsection shall be expressed in parts per million volume (dry basis) and shall be used to calculate the daily average emission rates under Section 6 of this regulation. The one (1) hour averages shall be calculated using the data points required under 40 CFR 60.13(h).

(6) Carbon monoxide. The following procedures shall be used for determining compliance with the carbon monoxide standards under Section 7 of this regulation.

(a) Compliance with the carbon monoxide emission limits in Appendix A of this regulation shall be determined using Method 10.

(b) The owner or operator of an affected facility with a MSWI unit capacity greater than 500 pound per hour shall install, calibrate, maintain, and operate a CEMS for measuring carbon monoxide at the incinerator outlet and shall record the output of the system.

(c) Following the initial performance test or the date on which the initial performance test is required to be completed by this section, compliance with the carbon monoxide emission limits shall be determined based on the arithmetic average of the four (4) hour emission rates measured using CEMS data.

(7) The following procedures shall be used for determining compliance with the operating practices under Section 8 of this regulation.

(a) The owner or operator of an affected facility that generates steam with a MSWI unit capacity greater than 500 pound per hour shall install, calibrate, maintain, and operate a steam flow meter, shall measure steam flow in kilograms per hour (pounds per hour) steam on a continuous basis, and shall record the output of the monitor. Steam flow shall be calculated in

one (1) hour block averages.

(b) The owner or operator of an affected facility with a MSWI unit capacity greater than 500 pound per hour shall install, calibrate, maintain, and operate a continuous monitoring system for measuring both secondary chamber temperature and the temperature of the flue gas stream at the inlet to the particulate matter air pollution control device and shall record the output of the device. Temperature shall be calculated in four (4) hour block averages.

(c) Percent reduction requirements. The following procedures shall be used to determine compliance with Section 8(5) to (7) of this regulation.

1. Except as provided in subparagraph 4 of this paragraph, the initial demonstration of compliance with the percent reduction requirement for processed MSW or RDF and Section 8(5), (6), and (7) of this regulation shall be required at the end of the second full calendar year (January through December) after the date of initial start-up of an affected facility. The annual average percent MSW reduction calculated and reported at the end of the first full calendar year after initial start-up shall not be used to determine compliance.

2. Compliance with the percent reduction requirement for processed MSW or RDF shall be determined by calculating the percentage difference between the weight of MSW received at the affected facility and the weight of MSW combusted in the MSWI unit or the weight of separated recoverable materials. Except as provided in subparagraph 4 of this paragraph, beginning the month after the date of the initial start-up for new MSWIs, the percent reduction in MSW shall be calculated on a monthly basis using the monthly total weights recorded in compliance with Section 11(1)(h) and (i) of this regulation. At the end of each full calendar year (January through December) the annual average percent MSW reduction (by weight) shall be calculated by using the annual total weights. In calculating the percent MSW reduction, a maximum of fifteen (15) [ten (10)] percent weight reduction shall be attributed to separation of yard waste. If the annual average percentage reduction requirement for processed MSW or RDF is not achieved, the MSW or RDF shall not be considered to be processed MSW or RDF.

3. An owner or operator may elect to achieve, either wholly or partially, the percent reduction requirement for processed MSW or RDF, the prohibition of yard waste or vehicle batteries in Section 8(6) of this regulation, or the removal of household batteries in Section 8(7) of this regulation, through an off-site source reduction or materials separation (recycling) program. The owner or operator shall submit a separation plan which contains sufficient information to measure the performance of the off-site separation program on an annual basis beginning the first full calendar year (January through December) for the initial start-up of the affected facility, except as provided in subparagraph 4 of this paragraph. The off-site separation plan shall be submitted along with the initial compliance demonstration results.

4. The owner or operator of an affected facility shall be responsible for operating the affected facility in compliance with all standards including the prohibition on combustion of unprocessed MSW, yard waste, and vehicle batteries under Section 8(5) and (6) of this regulation and the implementation of a program for removal of household batteries under Section 8(7) of this regulation. If another party provides processed MSW, or removes yard waste or vehicle or household batteries, the provider of the service may become a co-operator of the affected facility. If the party providing the off-site processing of MSW, removal of yard waste or vehicle batteries, or removal of household batteries elects to become a co-operator for purposes of demonstrating compliance with Section 8(5), (6), or (7) of this regulation, the owner or operator of the affected facility shall submit at the time of submittal of the initial compliance demonstration related to the requirements of Section 8(5), (6), or (7) of this regulation:

a. A copy of a validly executed contract between the owner and operator of the affected facility and the party providing the processing of MSW, removal of vehicle batteries, removal of yard waste, or removal of household batteries which contains the following provisions:

(i) An undertaking any the party that is co-operator or sole operator of the affected facility regarding compliance with the requirements of Section 8(5), (6), or (7) of this regulation; and

(ii) An undertaking by the party to meet the requirements of Section 8(5), (6), or (7) of this regulation and a description of the specific actions that will be implemented to comply with these requirements; and

b. A certified statement signed by an authorized official representing the party that they agree to become a cooperator, or sole operator, for the purpose of demonstrating compliance with Section 9(5), (6), or (7) of this regulation and recognizing that enforcement action, including penalties, may be taken against the party for failure to demonstrate compliance with these requirements.

(8) Additional CEMS and continuous monitoring system requirements.

(a) CEMS and continuous monitoring data, if required, shall be used to determine compliance with emission standards and operating practice standards.

(b) At a minimum, CEMS or continuous monitoring system data, if required, shall be obtained for ninety (90) percent of the hours per day for ninety (90) percent of the days per month that the unit is operated and combusting MSW.

(c) All valid CEMS or continuous monitoring system data, if required, shall be used in calculating emission rates and percent reductions even if the minimum CEMS or continuous monitoring system data requirements of paragraph (b) of this subsection are not met.

(d) If emissions data from CEMS or continuous monitoring systems are not obtained because of CEMS or monitoring system breakdown, repairs, calibration checks, and zero and span adjustments, emissions data shall be obtained by using other monitoring systems as approved by the cabinet or Methods 6, 6A, 6C, 7, 7E, 10, and 19, as appropriate, to provide necessary emission data for a minimum of ninety (90) percent of the hours per day for ninety (90) percent of the days per month the unit is operated and combusting MSW [solid waste].

(e) The procedures in 40 CFR 60.13 shall be followed for installation, evaluation, and

operation of the CEMS.

(f) The CEMS shall conform to the applicable performance specifications in 40 CFR Part 60, Apendix B or Kentucky Specification 4A.

(g) The requirements of Kentucky Procedure 1 shall be met in the operation of the CEMS.

Section 11. Reporting and Recordkeeping Requirements. (1) The owner or operator of an affected facility subject to Sections 3 to 10 of this regulation shall maintain records of the following information for each affected facility:

(a) Calendar date that data from performance tests, CEMS, or continuous monitoring systems were obtained.

(b) Emission rates and parameters measured using the units and time bases required for demonstrating compliance.

(c) Identification of the operating periods that the calculated sulfur dioxide, nitrogen oxides, or carbon monoxide emission rates, the opacity, or the operating parameters exceeded the applicable standards, with reasons for the exceedances and a description of corrective actions taken.

(d) Identification of operating periods for which sulfur dioxide, nitrogen oxides, or carbon monoxide emissions, opacity, or operational data have not been obtained, including reasons for not obtaining sufficient data and a description of corrective actions taken.

(e) Identification of the times that sulfur dioxide, nitrogen oxides, or carbon monoxide emission, opacity, or operational data have been excluded from the calculation of average emission rates or parameters and the reasons for excluding the data.

(f) The results of daily sulfur dioxide, nitrogen oxides, and carbon monoxide CEMS drift tests and accuracy assessments as required under Kentucky Procedure 1.

(g) The results of all annual performance tests conducted to determine compliance with the mass particulate matter, dioxin or furan, and hydrogen chloride standards.

(h) Beginning the month after the date of the initial start-up, the amount (by weight) of MSW or RDF received on a monthly basis at the affected facility, the amount (by weight) of MSW or RDF combusted on a monthly basis, and the amount of recoverable materials (by type and weight) separated on a monthly basis. Separated paper and paperboard shall be stored in a covered area and shall be protected from rain and moisture, so that the moisture content of the paper and paperboard when weighed is similar to their moisture content when received in the MSW or RDF.

(i) Beginning the month after the date of the initial start-up, the estimated amount (by type and weight) of recoverable materials reduced or separated for recovery on a monthly basis through an off-site or community source reduction or materials separation (recycling) program.

(j) Beginning at the end of the first full calendar year after the date of initial start-up, the calculations of the annual average percentage reduction in MSW achieved for the previous calendar year.

(k) Beginning the month after the date of the initial start-up and for each month thereafter, the amount (by weight) of vehicle batteries separated for recovery.

(2) After completion in accordance with applicable regulations, the owner or operator of an affected facility shall submit to the cabinet the initial performance test data, the performance evaluation of the CEMS using the applicable performance specifications in 40 CFR Part 60, Appendix B or Kentucky Specification 4A, and the maximum MSWI unit load within sixty (60) days upon completion.

(3) A plan describing the procedures for separating materials for recovery to achieve the forty (40) percent or greater MSW reduction requirement for processed MSW or RDF, a plan describing the procedures for ensuring that vehicle batteries are not combusted in the affected facility, and a description of the program for removal of household batteries shall be provided at the time of submittal of the initial demonstration of compliance with the requirements of Section 8(5), (6), and (7) of this regulation. The information shall be provided by the 30th day following the end of the second full calendar year after initial start-up.

(4) The owner or operator of an affected facility shall submit quarterly reports to the cabinet containing the information recorded under subsection (1) of this section and 401 KAR 59:005, Section 3(3) for all records required by this regulation which are applicable to the facility. Both a printed report and computer tape or discs shall be furnished in the format specified by the cabinet. All reports shall be postmarked by the 30th day following the end of each calendar quarter.

(5) Records of CEMS, steam flow, and temperature data shall be maintained for at least two (2) years after date of recording and shall be made available for inspection upon request.

(6) Records showing the names of persons who have completed review of the operating manual, including the date of the initial review and all subsequent annual reviews, and the documentation required by Section 9(7) of this regulation shall be maintained for at least two (2) years after date of manual review and shall be made available to the cabinet for inspection upon request.

(7) A description of the procedures employed for ensuring that unprocessed MSW or RDF is not combusted in an affected facility shall be maintained, along with associated records to demonstrate use of the procedures, and shall be made available for inspection upon request.

(8) Documentation demonstrating that the ash disposal from an affected facility complies with Section 8(9) of this regulation and 401 KAR 47:080 shall be submitted to the Division of Waste Management in the frequency required by the Division of Waste Management [for Air Quality on a quarterly basis].

[Section 12. Public Participation. KRS 224.855 shall apply for all permit applications for the construction, modification, reconstruction, or operation of an affected facility.]

Section 12. [13.] Reference Material. (1) The subject matter of this regulation relating to reference methods, CEMS, and testing shall be governed by 40 CFR 60.13 (1990), 40 CFR 60, Appendix A, Methods 1, 2, 3, 5, 6, 6A, 6C, 7, 7E, 9, 10, and 19 (1990), and 40 CFR 60, Appendix B, Performance Specifications 1, 2, 3, and 4 (1990).

(2) Incorporation by reference. The following documents from the Kentucky Division for Air Quality are hereby incorporated by reference.
(a) Kentucky Method 23, effective **December** [October] [July] 1990;
(b) Kentucky Method 26, effective July 1990;
(c) Kentucky Specification 4A, effective July 1990; and
(d) Kentucky Procedure 1, effective July 1990.
(3) The documents incorporated by reference in subsection (2) of this section are available for public inspection and copying at the following main regional offices of the Kentucky Division for Air Quality during the normal working hours of 8 a.m. to 4:30 p.m., local time.
(a) Kentucky Division for Air Quality, 316 St. Clair Mall, Frankfort, Kentucky 40601, (502)564-3382;
(b) Ashland Regional Office, 3700 Thirteenth Street, Ashland, Kentucky 41101, (606)325-8569;
(c) Bowling Green Regional Office, 1508 Westen Avenue, Bowling Green, Kentucky 42101, (502)843-5475;
(d) Florence Regional Office, 7964 Kentucky Drive, Suite 8, Florence, Kentucky 41042, (606)292-6411;
(e) Hazard Regional Office, 233 Birch Street, Hazard, Kentucky 41701, (606)439-2391;
(f) Owensboro Regional Office, 311 West Second Street, Owensboro, Kentucky 42301, (502)686-3304; and
(g) Paducah Regional Office, 1390 Irvin Cobb Drive, Paducah, Kentucky 42001,(502)444-8295.

[Section 14. 401 KAR 59:020, New incinerators, is hereby repealed.]

APPENDIX A TO 401 KAR 59:021

CARBON MONOXIDE STANDARDS FOR
MUNICIPAL SOLID WASTE INCINERATORS

Municipal Solid Waste Incinerator	Carbon Monoxide Emission Limit (ppmv)*
Mass burn waterwall	100
Mass burn refractory	100
Mass burn rotary waterwall	150
Modular starved air	50
Modular excess air	50
Refuse-derived fuel spreader stoker	150
Bubbling fluidized bed incinerator	100
Circulating fluidized bed incinerator	100
[Coal or] RDF co-fired incinerator	150
Other technologies	150

*Measured at the incinerator outlet in conjunction with a measurement of oxygen concentration, corrected to seven (7) percent oxygen (dry basis) using a four (4) hour block average.

APPENDIX B TO 401 KAR 59:021
FORMULA FOR PERCENTAGE REDUCTION IN
UNCONTROLLED SULFUR DIOXIDE EMISSIONS

$$\%P_{SO2} = \frac{(E_i - E_o)}{E_i} \times 100$$

Where:
$\%P_{SO2}$ is the percentage reduction in uncontrolled sulfur dioxide emissions.
E_i is the daily uncontrolled sulfur dioxide emission rate.
E_o is the daily sulfur dioxide emission rate measured at the outlet of the acid gas control device.

APPENDIX C TO 401 KAR 59:023
FORMULA FOR PERCENTAGE REDUCTION IN
UNCONTROLLED HYDROGEN CHLORIDE EMISSIONS

$$\%P_{HCl} = \frac{(E_i - E_o)}{E_i} \times 100$$

Where:
$\%P_{HCl}$ is the percentage reduction in uncontrolled hydrogen chloride emissions.
E_i is the daily uncontrolled hydrogen chloride emission rate.
E_o is the daily hydrogen chloride emission rate measured at the outlet of the acid gas control device.

FRANK DICKERSON, Commissioner
CARL H. BRADLEY, Secretary
APPROVED BY AGENCY: September 14, 1990
FILED WITH LRC: September 14, 1990 at 11 a.m.

TRANSPORTATION CABINET
Department of Vehicle Regulation
Division of Driver Licensing
(As Amended)

601 KAR 13:070. School attendance and academic sufficiency verification.

RELATES TO: KRS 186.440, 186.450, 186.470, 186.560
STATUTORY AUTHORITY: KRS 186.400
NECESSITY AND FUNCTION: HB 43 passed in the Regular Session of the 1990 General Assembly is applicable only in those counties of Kentucky served by a school district which has an alternative education program approved by the Department of Education. The bill requires anyone under the age of eighteen (18) years who is applying for either a learner's permit or operator's license and who has not graduated from high school to present verification issued by his school within the preceding thirty (30) days that he is enrolled in school and has not been found academically deficient. Further, KRS 186.560 requires the Transportation Cabinet as soon as notified to revoke the license of a person under the age of eighteen (18) years who has dropped out of school or is academically deficient. This administrative regulation sets forth the information which is to be submitted to the Transportation Cabinet and the circuit court clerk in order for them to meet their statutory duties. It further sets forth the times when a school attendance form is to be presented and the steps to be followed by a youth in having his driving privilege restored.

Section 1. No person shall be declared to be academically deficient for any school semester prior to the fall semester of 1990.

Section 2. School Enrollment Verification. An applicant under the age of eighteen (18) years seeking either an operator's license or a learner's permit who resides within the boundaries of a school district which has alternative education program approved by the Department of Education shall submit a school

enrollment verification form from either a public, common or private school as provided in 704 KAR 7:100, Section 4 or shall submit proof of high school graduation to the circuit court clerk in his county of residence. The school enrollment verification form shall contain at a minimum the following information:
(1) Applicant's full name;
(2) Applicant's Social Security Number;
(3) Applicant's full address;
(4) Applicant's date of birth;
(5) Name of the school district;
(6) Name of the school;
(7) School district address;
(8) Signature and title of the school district official executing the verification form;
(9) Certification of the applicant's school enrollment in accordance with KRS Chapter 159;
(10) After the end of the 1990 fall semester, certification that the applicant is not academically deficient in accordance with KRS Chapter 159; and
(11) Date of verification which shall be within the preceding thirty (30) days but shall not be prior to July 13, 1990.

Section 3. Home Schooling Verification. An applicant for a learner's permit or operator's license who resides within the boundaries of a school district which has an alternative education program approved by the Department of Education, who is under the age of eighteen (18) years, who has not graduated from high school and who is being schooled at home shall present schooling verification to the circuit court clerk in his county of residence. The verification shall contain at least the following information:
(1) Applicant's full name;
(2) Applicant's Social Security Number;
(3) Applicant's full address;
(4) Applicant's date of birth;
(5) Parent or guardian's full name;
(6) Parent or guardian's address;
(7) Signature of parent or guardian;
(8) Certification that applicant is being schooled at home;
(9) After the 1990 fall semester, certification that the applicant is not academically deficient in accordance with KRS Chapter 159; and
(10) Date of verification which shall be within the preceding thirty (30) days but shall not be prior to July 13, 1990.

Section 4. Certification of School Dropout or Academic Deficiency. (1) When the superintendent of a school district which has an alternative program approved by the Department of Education certifies to the Transportation Cabinet that a student has dropped out of school or is academically deficient, the superintendent shall provide the following information to the Division of Driver Licensing, State Office Building, Second Floor, High and Clinton Streets, Frankfort, Kentucky 40622:
(a) Student's full name;
(b) Student's address;
(c) Student's Social Security Number;
(d) Student's date of birth;
(e) Certification that the student has dropped out of school or after the 1990 fall semester, is academically deficient as defined in KRS Chapter 159;
(f) Certification that the school district has an alternative education program approved by the Department of Education;
(g) Superintendent's name;
(h) Name of school district;
(i) Signature of superintendent or other person authorized by the superintendent to submit the certification; and
(j) Date of certification.
(2) The Transportation Cabinet shall prepare a form containing space for the above information and certifications. The forms shall be made available to the Department of Education for distribution.

Section 5. Return to School or Academic Sufficiency. A student who is reapplying for driving privilege after a return to school or achieving academic sufficiency shall submit a verification of this from his school district to the circuit court clerk in his county of residence. The verification shall contain at least the following:
(1) Applicant's full name;
(2) Applicant's address;
(3) Applicant's Social Security Number;
(4) Applicant's date of birth;
(5) Name and address of the school district;
(6) Name and address of the school;
(7) Signature and title of the school district official executing the verification form;
(8) Certification of applicant's reenrollment in school in accordance with KRS Chapter 159;
(9) Certification that the applicant is not academically deficient in accordance with KRS Chapter 159; and
(10) Date of the verification.

Section 6. Driving Privilege Restoration. Any person who is eligible to have his driving privilege restored only because he has reached his 18th birthday, that is, he neither has been certified by his school district as once again being a student in good standing nor has a court ordered the restoration of his driving privilege, shall [pay the thirty (30) dollar reinstatement and relicensing fee required by KRS 186.440 and KRS 186.450 and the Kentucky State Police shall] again **be examined by the Kentucky State Police** [examine the applicant].

Section 7. Any person denied an instruction permit or operator's license because he was not eligible for a school enrollment or home schooling verification form may, for the reasons set forth in KRS Chapter 159, petition the jurisdictional court for an operator's license eligibility order so that he might apply for an instruction permit or operator's license.

Section 8. Counties with Multiple School Districts. In a county with multiple school districts, if at least one (1) but not all have an alternative education program approved by the Department of Education, then all applicants for an instruction permit or operator's license under the age of eighteen (18) years shall present to the circuit clerk's office either a school enrollment or home schooling verification form as described in Sections 2 and 3 of this regulation, proof of high school graduation or proof from his school on a form approved by Department of Vehicle Regulation that he resides in a district which does not have an approved alternative education program.

JEROME LENTZ, Commissioner
MILO D. BRYANT, Secretary
APPROVED BY AGENCY: August 23, 1990
FILED WITH LRC: August 28, 1990 at 4 p.m.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of School Administration & Finance
(As Amended)

702 KAR 3:100. Data form, professional staff.

RELATES TO: KRS 156.031, 157.390, 157.420
STATUTORY AUTHORITY: KRS 156.070, 157.320 [157.390]
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 157.390 sets forth that the SEEK base funding level of a local school district for teachers' salaries shall be based on categories of experience set forth therein; and [through] 157.420 sets forth various restrictions on a local district's teachers' salaries [how Foundation Program] allotment[s are determined]. This regulation allows the Department of Education to collect assignment and salary data on teachers employed by the school district [and included in the Foundation Program calculation as classroom units].

Section 1. The Department of Education professional staff data form, **dated November 19, 1990, is hereby incorporated by reference, and** [(Appendix A)] shall be completed during the week of September 15 for any teacher paid by and/or under the supervision of the district board of education. The completed forms shall be forwarded to the Division of School District Finance [Management and Audit] not later than October 1 of each school year. **This form may be copied or viewed at the Department of Education, Capital Plaza Tower, Monday through Friday, from 8 a.m. to 4:30 p.m.**

[Section 2. Rank and experience of the teacher on September 15 shall determine the rank of the Foundation Program teacher for the school year except teachers having a higher rank certified by Office of Instruction, Division of Teacher Certification, dated between September 15 and January 31, shall be allotted five-tenths (0.5) unit on the September 15 rank, and five-tenths (0.5) unit on the rank earned on or before January 31 of the school year. Such a teacher employed subsequent to September 15 and prior to January 31 of the school year shall be allotted a fractional part of five-tenths (0.5) unit, based on the rank on the date employed and for the period employed prior to January 31, and five-tenths (0.5) unit on the higher certified rank on January 31.]

Section 2. [3. A vacancy or new position staffed between September 15 and January 31 shall be assigned a fraction of a classroom unit.] Changes of personnel, vacancy, new position staffed, or position abolished between September 15 and January 31 shall be reported on the February amendment to the professional staff data form. This amendment shall be completed February 1 and is due in the Division of School District Finance [Management and Audit] on or before February 5. [No part of a unit shall be granted for positions staffed after January 31.]

HENRY E. POGUE, IV, Chairman
APPROVED BY AGENCY: September 12, 1990
FILED WITH LRC: September 13, 1990 at 4 p.m.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of School Administration & Finance
(As Amended)

702 KAR 3:110. Document filing dates.

RELATES TO: KRS 156.031, 156.160, 157.060 [160.470]
STATUTORY AUTHORITY: KRS [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 156.160 requires the State Board for Elementary and Secondary Education to establish a uniform series of financial forms for local school districts; and KRS 157.060 requires local districts to submit annual financial reports. This regulation is necessary to establish forms and dates of filing for State Board for Elementary and Secondary [of] Education financial archives.

Section 1. The documents which become a part of State Board for Elementary and Secondary [of] Education archives shall be submitted to the Division of School District Finance [Management and Audit] by the following dates annually: Annual Financial Report (F-55, **dated June 30, 1990, and hereby incorporated by reference** [Appendix A]), July 25; Working Budget (F-10, **dated July 1, 1990, and hereby incorporated by reference** [Appendix B]), September 15. **These forms may be copied or viewed at the Department of Education, Capital Plaza Tower, Monday through Friday, from 8 a.m. to 4:30 p.m.**

HENRY E. POGUE, IV, Chairman
APPROVED BY AGENCY: September 12, 1990
FILED WITH LRC: September 13, 1990 at 4 p.m.

REGULATIONS AMENDED AFTER PUBLIC HEARING

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management
(Amended After Hearing)

401 KAR 42:020. Performance standards for new UST systems.

RELATES TO: KRS 224.033, 224.814, 40 CFR Part 280 Subpart B Appendix II, 40 CFR Part 281, 42 U.S.C. 6991c

STATUTORY AUTHORITY: KRS 224.033, 224.814, 40 CFR Part 280 Subpart B Appendix II, 40 CFR Part 281, 42 U.S.C. 6991c

NECESSITY AND FUNCTION: KRS 224.033 requires the Natural Resources and Environmental Protection Cabinet to develop and conduct programs which provide for the prevention, abatement, and control of contaminants which may threaten the environment. KRS 224.814(2) requires the cabinet to regulate underground storage tanks by requiring notification, minimum construction and performance standards, leak detection, recordkeeping, reporting releases, corrective actions, closure, financial responsibility, and other requirements to protect public health and the environment. KRS 224.814(3) requires the cabinet to establish a regulatory program which implements federal requirements for underground storage tanks and to promulgate administrative regulations for underground storage tanks which shall be submitted for approval to the United States Environmental Protection Agency pursuant to federal regulations. This chapter identifies requirements for underground storage tanks. This regulation establishes requirements concerning performance standards, notification, and alternatives for upgrading existing UST systems.

Section 1. (1) The requirements concerning performance standards, notification, and alternatives for upgrading UST systems are governed by 40 CFR Part 280, Subpart B (1990) and Appendix II (1990).

(2) 40 CFR 280.22(b) allows for state forms to be used in lieu of federal forms for notification of underground storage tanks. The notification form for underground storage tanks in Kentucky is being incorporated by reference into this section. This form became effective in **November 1990** [June 1989], and is available for distribution and inspection from the Underground Storage Tank Program, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. The business hours of the division are from 8 a.m. to 4:30 p.m. Monday through Friday.

CARL H. BRADLEY, Secretary
FRANK DICKERSON, Commissioner
APPROVED BY AGENCY: November 6, 1990
FILED WITH LRC: November 6, 1990 at 3 p.m.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management
(Amended After Hearing)

401 KAR 42:070. Out-of-service UST systems and closure.

RELATES TO: KRS 224.033, 224.814, 40 CFR Part 280 Subpart G, 40 CFR Part 281, 42 U.S.C. 6991c

STATUTORY AUTHORITY: KRS 224.033, 224.814, 40 CFR Part 280 Subpart G, 40 CFR Part 281, 42 U.S.C. 6991c

NECESSITY AND FUNCTION: KRS 224.033 requires the Natural Resources and Environmental Protection Cabinet to develop and conduct programs which provide for the prevention, abatement, and control of contaminants which may threaten the environment. KRS 224.814(2) requires the cabinet to regulate underground storage tanks by requiring notification, minimum construction and performance standards, leak detection, recordkeeping, reporting releases, corrective actions, closure, financial responsibility, and other requirements to protect public health and the environment. KRS 224.814(3) requires the cabinet to establish a regulatory program which implements federal requirements for underground storage tanks and to promulgate administrative regulations for underground storage tanks which shall be submitted for approval to the United States Environmental Protection Agency pursuant to federal regulations. This chapter identifies requirements for underground storage tanks. This regulation establishes the requirements for release detection and recordkeeping for all UST systems.

Section 1. (1) The requirements for out-of-service UST systems and closure are governed by 40 CFR Part 280 Subpart G (1990).

(2) The forms for the notice of intent to permanently close underground storage tanks and the closure assessment report are being incorporated by reference into this section. These forms became effective in **November 1990** [June of 1989], and are available for distribution and inspection from the Underground Storage Tank Program, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. The business hours of the division are from 8 a.m. to 4:30 p.m. Monday through Friday.

CARL H. BRADLEY, Secretary
FRANK DICKERSON, Commissioner
APPROVED BY AGENCY: November 6, 1990
FILED WITH LRC: November 6, 1990 at 3 p.m.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of School Administration & Finance
(Amended After Hearing)

702 KAR 3:220. Guidelines for waiver of school fees.

RELATES TO: KRS 160.330
STATUTORY AUTHORITY: KRS 160.330
NECESSITY AND FUNCTION: KRS 160.330 provides

that local school districts shall establish, consistent with State Board for Elementary and Secondary regulations, a process to waive fees for qualifying students and a procedure for notice of such. This regulation provides guidelines for the waiver of school fees by local districts.

Section 1. Beginning with the 1990-91 school year, local school districts shall establish a process by which to waive any applicable fees charged by the district for pupils who qualify for free or reduced price lunches, including a process by which at least all such students shall be informed of the fee waiver provisions. Districts that do not charge fees to any students shall not be subject to these requirements.

Section 2. Local school districts shall adopt specific policies and procedures whereby, at the beginning of the school year **or at the time of enrollment**, all or at least qualifying pupils and their parents shall be given clear and prominent written notice of the fee waiver process, including the applicable income guidelines. Such policies and procedures shall also insure that the written notice of the fee waiver process shall include a form that parents shall use to request waiver of applicable fees.

Section 3. Local districts shall keep records for documentation and compliance purposes, which shall be made available to the Department of Education upon request. These records shall include:

(1) The number of pupils receiving free lunches and reduced price lunches;

(2) The number of pupils who request that fees be waived and the number of pupils for who fees are waived;

(3) Copies of any forms, notices or instructions used by schools in the collection or waiver of fees.

Section 4. Mandatory waiver of fees shall not apply to those fees charged and applicable to [extracurricular] activities **or rental of property taking place or for excluseive use outside the normal six (6) hour school day (and any local district extension of such) and having no impact upon graduation from or credit for any instructional course(s) included in or authorized by the "Program of Studies for Kentucky Schools, Grades K-12", incorporated by reference in 704 KAR 3:304, nor shall mandatory waiver apply to** [and] any fees beyond those charged for [minimum participation in and] full credit for instructional courses **and essential for meeting student performance objectives**.

HENRY E. POGUE, IV, Chairman
APPROVED BY AGENCY: November 14, 1990
FILE WITH LRC: November 14, 1990 at 10 a.m.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Education for Exceptional Children
(Amended After Hearing)

707 KAR 1:140. Qualifications for approved classroom assignment of teachers of exceptional children.

RELATES TO: KRS 157.250 [157.200 to 157.290, 157.360, 161.030]
STATUTORY AUTHORITY: KRS 157.220 [156.070, 157.360, 161.030]
NECESSITY AND FUNCTION: KRS 157.250 prohibits any person from being employed in a special education program without meeting special training requirements of the State Board for Elementary and Secondary Education [157.200 to 157.290 set forth the state statutory framework for special education programs for exceptional children; KRS 157.360 provides the mechanism for state financial support of local school district programs for exceptional children; and KRS 161.030 rests teacher certification authority with the State Board for Elementary and Secondary Education]. This regulation establishes the qualifications for approval of classroom teaching personnel for classrooms [unit allocation] for exceptional pupils.

Section 1. Qualifications for Assignments of Special Education Personnel. Teachers employed for a teaching assignment in a classroom for exceptional pupils for the 1990-91 school year shall hold appropriate state certification in the areas of assignment as required in Title 704 KAR Chapter 20, except as specified in Sections 2 through 14 of this regulation.

Section 2. [1.] Educable Mentally Handicapped. Teachers holding the following certification may be assigned to classes established to serve educable mentally handicapped pupils, grades K-12 or any combination of grades thereof:

(1) Certification for learning and behavior disorders, grades K-12 or 7-12.

(2) Certification for teaching the educable mentally retarded, emotionally disturbed, or neurologically impaired, for grades 1-12, 1-8, or 7-12.

Section 3. [2.] Emotionally Disturbed. Teachers holding the following certification may be assigned to classes established to serve emotionally disturbed pupils, grades K-12, or any combination of grades thereof:

(1) Certification for learning and behavior disorders, grades K-12 or 7-12.

(2) Certification for teaching the educable mentally retarded, emotionally disturbed, or neurologically impaired, or handicapped for grades 1-12, 1-8, or 7-12.

Section 4. [3.] Learning Disabilities. Teachers holding the following certification may be assigned to classes established to serve learning disabled pupils, grades K-12, or any combination of grades thereof:

(1) Certification for learning and behavior disorders, grades K-12 or 7-12.

(2) Certification for teaching the educable mentally retarded, emotionally disturbed, or neurologically impaired, for grades 1-12, 1-8, or 7-12.

Section 5. [4.] Physically Handicapped. Teachers holding the following certification may be assigned to classes established to serve physically handicapped pupils, grades K-12, or any combination of grades thereof:

(1) Certification for learning and behavior disorders, grades K-12 or 7-12.

(2) Certification for teaching the educable mentally retarded, emotionally disturbed, neurologically impaired, or orthopedically handicapped for grades 1-12, 1-8, or 7-12.

Section 6. [5.] Trainable Mentally Handicapped. Teachers holding the following certification may be assigned to classes established to serve trainable mentally handicapped pupils, grades K-12, or any combination of grades thereof:

(1) Certification for trainable mentally handicapped, grades K-12.

(2) Certification for teaching the trainable mentally retarded, grades 1-12, 1-8, or 7-12.

(3) Certification for teaching the severely and [/] profoundly handicapped.

Section 7. [6.] Severely Profoundly Handicapped. Teachers holding the following certification may be assigned to classes established to serve pupils classified as severely and [/] profoundly handicapped at any grade level:

(1) Certification for teaching the trainable mentally handicapped, or trainable mentally retarded, grades K-12, 1-8, or 7-12.

(2) Certification for teaching the severely and [/] profoundly handicapped.

Section 8. [7.] Multiple Handicapped. (1) Teachers of classes established where the majority of students are multiple handicapped whose intellectual functioning is trainable mentally handicapped or below shall hold the following certification:

(a) Certification for teaching the trainable mentally handicapped or trainable mentally retarded, grades K-12, 1-8, or 7-12.

(b) Certification for teaching the severely and [/] profoundly handicapped.

(2) Teachers of classes established where the majority of students are multiple handicapped whose intellectual functioning is educable mentally handicapped or above, and with no students whose intellectual functioning is within the range for severely and [/] profoundly handicapped, shall hold the following certification:

(a) Certification for teaching the educable mentally retarded, emotionally disturbed, neurologically impaired, or orthopedically handicapped for grades 1-12, 1-8, or 7-12.

(b) Certification for learning and behavior disorders, grades K-12, or 7-12.

Section 9. [8.] Visually Handicapped. Teachers holding the following certification may be assigned to classes established to serve pupils classified as visually impaired at any grade level: certification for teaching the partially seeing, blind, or visually impaired, grades 1-12, 1-8, or 7-12.

Section 10. [9.] Hearing Impaired. Teachers holding the following certification may be assigned to classes established to serve pupils classified as hearing impaired at any grade level: certification for teaching the hard of hearing, deaf, or hearing impaired, grades K-12, 1-12, 1-8, or 7-12.

Section 11. [10.] Speech-language Disorders. Teachers holding the following certification may be assigned to serve pupils at any grade level who have been identified as needing instruction for speech or language disorders:

(1) Certification for speech and hearing, grades 1-12.

(2) Certification for speech and communication disorders, grades K-12.

(3) Certification for communication disorders.

Section 12. [11.] Exceptional Children Kindergarten Classes. Teachers holding the following certification may be assigned to serve kindergarten age pupils classified as handicapped:

(1) Certification for teaching the educable mentally retarded, emotionally disturbed, neurologically impaired, orthopedically handicapped, trainable mentally handicapped, visually impaired, partially seeing, deaf, hard of hearing, hearing impaired, grades 1-12, 1-8, or 7-12.

(2) Certification for learning and behavior disorders, trainable mentally handicapped, and severely or profoundly handicapped, grades K-12.

Section 13. [12.] Replacement Teacher for Special Education Classes. When a local school district loses the services of the approved, certified special education teacher after September 15, a replacement teacher may be assigned to a classroom unit for exceptional children under the following priority order.

(1) A teacher holding certification for the assignment as identified in Sections 2 [1] through 12 [11] of this regulation.

(2) If a teacher is not available who holds certification identified in subsection (1) of this section, the local school district may apply to the Office of Education for Exceptional Children for approval of qualifications for a replacement teacher, with the exception of speech language disorders, who meets the following criteria:

(a) The application shall document the following:

1. Teachers with certification in special education are not available within the local school district for the position.

2. Efforts have been made to recruit a teacher certified in special education for the vacant position. The vacancy has been publicized by appropriate means, including advertisement of the vacant position under applicable law.

3. The position will be filled by the best certified person available giving preference to the factors of academic preparation, prior successful teaching experience or related educational work.

(b) The replacement teacher shall hold a classroom teaching certificate valid for the same grade level of the assignment.

(c) The replacement teacher shall not be employed for the same teaching assignment for the following academic year without obtaining appropriate certification.

(d) The approval shall be effective from the date the application for approval is received by the Office of Education for Exceptional Children.

Section 14. [13.] Combinations of grades to be served within all categorical areas remain subject to age range requirements as set forth in 707 KAR 1:052 through 707 KAR 1:059.

Section 15. Qualifications for Assignments of Special Education Personnel. Teachers employed for a teaching assignment in a classroom for exceptional pupils beginning with the 1991-1992 school year shall hold appropriate state certification in the areas of assignment as required in Title 704 KAR Chapter 20, except as specified in Section 13 through 22 of this regulation.

Section 16. Qualifications for assignments of special education teachers to programs serving a single category or combinations of categories of pupils identified as educable mentally handicapped (EMH), learning disabled (LD), emotionally disturbed (ED), and physically handicapped (PH) shall be as follows:

(1) Single category programs. Only teachers certified to teach the category of handicapping condition of the students in the class (EMH, LD, ED, or PH) or teachers certified for learning and behavior disorders (LBD) shall be assigned to teach these classes.

(2) Dual category programs. Local school districts may serve pupils classified in two (2) different categories of exceptionality listed above in the same program if the teacher is certified to teach one (1) of categories of handicapping conditions of the students in the program or is certified in the area of learning and behavior disorders (LBD).

(3) Triple category programs. Local school districts may serve pupils classified in three (3) different categories of exceptionality listed above in the same program if the teacher is certified to teach two (2) of the categories of handicapping conditions of the students in the program or is certified in the area of learning and behavior disorders.

Section 17. Qualifications for assignments of special education teachers to programs serving a single category or combinations of categories of pupils identified as trainable mentally handicapped (TMH), severely and profoundly handicapped (SPH), or multiple handicapped whose intellectual functioning is trainable mentally handicapped or below (MH). Local school districts may serve pupils classified in a single category of exceptionality listed above, or in combinations two (2) or three (3) categories of exceptionality listed above, in the same program if the teacher is certified to teach trainable mentally handicapped (TMH) or severely and profoundly handicapped (SPH).

Section 18. Qualifications for assignments of special education teachers to multiple handicapped programs where the majority of students are multiple handicapped whose intellectual functioning is educable mentally handicapped or above. Teachers of programs established where the majority of students are multiple handicapped whose intellectual functioning is educable mentally handicapped or above, and with no students whose intellectual functioning is within the range of severely and profoundly handicapped, shall hold the following certification:

(1) Certification for teaching the educable mentally retarded, or neurologically impaired, for grades 1-12, 1-8, or 7-12.

(2) Certification for learning and behavior disorders, grades K-12, or 7-12.

Section 19. Exceptional Children Kindergarten Classes. Districts wishing to assign teachers to exceptional kindergarten classes which serve kindergarten age pupils identified as handicapped shall request approval for the teacher assignment from the Kentucky Department of Education, Office of Education for Exceptional Children, pursuant to the requirements set forth in Section 22 of this regulation.

Section 20. Teachers employed as of September 1, 1985, and assigned to programs which include pupils of an exceptionality not covered by their certification may continue to be assigned to such classes, provided the teacher has had class assignments which included such exceptional pupils for each of the preceding three (3) years, and the Kentucky Department of Education approved the assignment for each of the years involved.

Section 21. If a teacher of exceptional students is appropriately certified pursuant to the provisions of Title 704 Chapter 20 or assigned in accordance with the requirements of this regulation, such teacher may teach students [at any grade level] for which he or she holds categorical certification.

Section 22. Requests for Teacher Assignment. Local school districts which need to assign teachers to teach classes or pupils not consistent with the above criteria shall request approval for the teacher assignment from the Kentucky Department of Education, Office of Education for Exceptional Children.

(1) The Kentucky Department of Education shall give consideration for such approval based on information provided by the local school district as follows:

(a) Request shall be made prior to September 15 or within ten (10) school days of the need for assignment if it occurs after September 15 and shall include the teacher's name, school assignment, Social Security Number and class plan assignment.

(b) The teacher's current certification(s), a listing of pupils currently served by age and category of exceptionality, a listing of pupils the district is requesting to be served by age and exceptionality, and any other relevant information which the district wishes to have considered in the decision-making process.

(2) The assignment shall not exceed the length of the school year during which it was initiated.

HENRY E. POGUE, IV, Chairman
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CABINET FOR HUMAN RESOURCES
Office of the Inspector General
(Amended After Hearing)

902 KAR 20:026. Operations and services; skilled nursing facilities.

RELATES TO: KRS 216B.010 to 216B.131, 216B.990
STATUTORY AUTHORITY: KRS 216B.042, 216B.105
NECESSITY AND FUNCTION: KRS 216B.042 and 216B.105 mandate that the Cabinet for Human Resources regulate health facilities and health services. This regulation establishes licensure requirements for the operation of skilled nursing facilities.

Section 1. Definitions. (1) "Administrator" means a person who is licensed as a nursing home administrator pursuant to KRS 216A.080.

(2) "Board" means the Commission for Health Economics Control in Kentucky.

(3) "Facility" means a skilled nursing facility.

(4) "License" means an authorization issued by the Board for the purpose of operating a skilled nursing facility and offering skilled nursing services.

(5) "Occupational therapist" means a person who is registered by the American Occupational Therapy Association or a graduate of a program in occupational therapy approved by the Council on Medical Education of the American Medical Association in collaboration with the American Occupational Therapy Association and who is engaged in or has completed the required supervised clinical experience period prerequisite to registration by the American Occupational Therapy Association.

(6) "Speech pathologist" means a person who:

(a) Meets the education and experience requirements for a Certificate of Clinical Competence in the appropriate area (speech pathology or audiology) granted by the American Speech and Hearing Association; or

(b) Meets the educational requirements for certification and is in the process of accumulating the supervised experience required for certification.

(7) "Qualified dietician" or "nutritionist" means:

(a) A person who has a bachelor of science degree in foods and nutrition, food service management, institutional management or related services and has successfully completed a dietetic internship or coordinated undergraduate program accredited by the American Dietetic Association (ADA) and is a member of the ADA or is registered as a dietician by ADA; or

(b) A person who has a masters degree in nutrition and is a member of ADA or is eligible for registration by ADA; or

(c) A person who has a bachelor of science degree in home economics and three (3) years of work experience with a registered dietician.

(8) "Qualified medical record practitioner" means a person who has graduated from a program for medical record administrators or technicians accredited by the Council on Medical Education of the American Medical Association and the American Medical Record Association; and who is certified as a Registered Records Administrator or an Accredited Record Technician by the American Medical Record Association.

(9) "Qualified social worker" means a person who is licensed pursuant to KRS 335.090, if applicable, and who is a graduate of a school of social work accredited by the Council on Social Work Education.

(10) "Protective devices" means devices that are designed to protect a person from falling, to include side rails, safety vest or safety belt.

(11) "Restraint" means any pharmaceutical agent or physical or mechanical device used to restrict the movement of a patient or the movement of a portion of a patient's body.

Section 2. Scope of Operations and Services. Skilled nursing facilities are establishments with permanent facilities including inpatient beds. Services provided include medical services, and continuous nursing services to provide treatment for patients. Patients in a skilled nursing facility are patients who require inpatient care but are not in an acute phase of illness, and who currently require primarily convalescent or rehabilitative services and have a variety of medical conditions.

Section 3. Administration and Operation. (1) Licensee. The licensee shall be legally responsible for the facility and for compliance with federal, state and local laws and regulations pertaining to the operation of the facility.

(2) Administrator. All facilities shall have an administrator who is responsible for the operation of the facility and who shall delegate such responsibility in his absence.

(3) Policies. The facility shall establish written policies and procedures that govern all services provided by the facility. The written policies shall include:

(a) Personnel policies, practices and procedures that support sound patient care.

(b) Notification of changes in patient status and service cost. There shall be written policies and procedures relating to notification of responsible person(s) in the event of significant changes in patient status, patient charges, billings, and other related administrative matters.

(c) Patient care policies. The facility shall have written policies to govern the skilled nursing care and related medical and other services provided, which shall be developed with the advice of professional personnel, including one (1) or more physicians and one (1) or more registered nurses and other health personnel (e.g., social workers, dieticians, pharmacists, speech pathologists and audiologists, physical and occupational therapists and mental health personnel). Pharmacy policies and procedures shall be developed with the advice of a subgroup of physicians and pharmacists who serve as a pharmacy and therapeutics committee. A physician or a registered nurse shall be responsible for assuring compliance with and annual review of these policies. In addition to written policies for services, the facility shall have written policies to include:

1. Admission, transfer, and discharge policies including categories of patients accepted and not accepted by the facility.
2. Medication stop orders;
3. Medical records;
4. Transfer agreement;
5. Utilization review; and
6. Use of restraints.

(d) Adult and child protection. The facility shall have written policies which assure the reporting of cases of abuse, neglect or exploitation of adults and children to the Cabinet for Human Resources pursuant to KRS Chapter 209 and KRS 199.335.

(e) Missing patient procedures. The facility shall have a written procedure to specify in a step-by-step manner the actions which shall be taken by staff when a patient is determined to be lost, unaccounted for or on other unauthorized absence.

(4) Patient rights. Patient rights shall be provided for pursuant to KRS 216.510 to 216.525.

(5) Admission.

(a) Patients shall be admitted only upon the referral of a physician. Additionally, the facility shall admit only persons who require medical and continuous skilled nursing care and who currently require primarily convalescent or rehabilitative services for a variety of medical conditions. The facility shall not admit persons whose care needs exceed the capability of the facility.

(b) Upon admission the facility shall obtain the patient's medical diagnosis, physician's orders for the care of the patient and the transfer form. The facility shall obtain a medical evaluation within forty-eight (48) hours of admission, unless an evaluation was performed within five (5) days prior to admission. The medical evaluation shall include current medical findings, rehabilitation potential, a summary of the course of treatment followed in the hospital or intermediate care facility (a current hospital discharge summary containing the above information shall be acceptable).

(c) If the physician's orders for the immediate care of a patient are unobtainable at the time of admission, the facility shall contact the physician with responsibility for emergency care to obtain temporary orders.

(d) Before admission the patient and a responsible member of his family or committee shall be informed in writing of the established policies of the facility to include: fees, reimbursement, visitation rights during serious illness, visiting hours, type of diets offered and services rendered.

(6) Discharge planning. The facility shall have a discharge planning program to assure the continuity of care for patients being transferred to another health care facility or being discharged to the home.

(7) Transfer procedures and agreements.

(a) The facility shall have written transfer procedures and agreements for the transfer of patients to other health care facilities which can provide a level of inpatient care not provided by the facility. Any facility which does not have a transfer agreement in effect but which documents a good faith attempt to enter into such an agreement shall be considered to be in compliance with the licensure requirement. The transfer procedures and agreements shall specify the responsibilities each institution assumes in the transfer of patients, shall establish responsibility for notifying the other institution promptly of the impending transfer of a patient, and shall arrange for appropriate and safe transportation.

(b) When the patient's condition exceeds the scope of services of the facility, the patient, upon physician's orders (except in cases of emergency), shall be transferred promptly to an appropriate level of care.

(c) The agreement shall provide for the transfer of personal effects, particularly money and valuables, and for the transfer of information related to these items.

(d) When a transfer is to another level of care within the facility, the complete patient record or a current summary thereof shall be transferred with the patient.

(e) If the patient is transferred to another health care facility or home to be cared for by a home health agency, a transfer form shall accompany the patient. The transfer form shall include at least the following: physician's orders (if available), current information relative to diagnosis with history of problems requiring special care, a summary of the course of prior treatment, special supplies or equipment needed for patient care, and pertinent social information on the patient and his family.

(f) Except in an emergency, the patient, his next of kin, or responsible person(s) if any, and the attending physician shall be consulted in advance of the transfer or discharge of any patient.

(8) Tuberculosis testing. All employees and patients shall be tested for tuberculosis in accordance with the provisions of 902 KAR 20:200, tuberculosis testing in long term care facilities.

(9) Personnel.

(a) Job descriptions. Written job descriptions shall be developed for each category of personnel to include qualifications, lines of authority and specific duty assignments.

(b) Employee records. Current employee records shall be maintained and shall include a resume of each employee's training and experience, evidence of current licensure or registration where required by law, health records, evaluation of performance, records of in-service training and ongoing education, along with employee's name, address and social security number.

(c) Health requirements. No employee contracting an infectious disease shall appear at work until the infectious disease can no longer be transmitted.

(d) Staffing classification requirements.

1. The facility shall have adequate personnel to meet the needs of the patients on a twenty-four (24) hour basis. The number and classification of personnel required shall be based on the number of patients, and the amount and kind of personal care, nursing care, supervision, and program needed to meet the needs of the patients, as determined by medical orders and by services required by this regulation.

2. If the staff/patient ratio does not meet the needs of the patients, the Division for Licensing and Regulation shall determine and inform the administrator in writing how many additional personnel are to be added and of what job classification, and shall give the basis for this determination.

3. The facility shall have a director of nursing service who is a registered nurse and who works full time during the day, and who devotes full time to the nursing service of the facility. If the director of nursing has administrative responsibility for the facility, there shall be an assistant director of nursing, who shall be a registered nurse, so that there shall be the equivalent of a full-time director

of nursing service. The director of nursing shall be trained or experienced in areas of nursing service, administration, rehabilitation nursing, psychiatric or geriatric nursing. The director of the nursing service shall be responsible for:

a. Developing and maintaining nursing service objectives, standards of nursing practice, nursing procedure manuals, and written job descriptions for each level of nursing personnel;

b. Recommending to the administrator the number and level of nursing personnel to be employed, participating in their recruitment and selection, and recommending termination of employment when necessary;

c. Assigning and supervising all levels of nursing personnel;

d. Participating in planning and budgeting for nursing care;

e. Participating in the development and implementation of patient care policies and bringing patient care problems requiring changes in policy to the attention of the professional policy advisory group;

f. Coordinating nursing services with other patient care services;

g. Planning and conducting orientation programs for new nursing personnel and continuing in-service education for all nursing personnel;

h. Participating in the selection of prospective patients in terms of nursing services they need and nursing competencies available;

i. Assuring that a nursing care plan shall be established for each patient and that his plan shall be reviewed and modified as necessary;

j. Assuring that registered nurses, licensed practical nurses, nurses' aides and orderlies are assigned duties consistent with their training and experience.

4. Supervising nurse. Nursing care shall be provided by or under the supervision of a full-time registered nurse. The supervising nurse shall be a licensed registered nurse who may be the director of nursing or the assistant director of nursing and shall be trained or experienced in the areas of nursing administration and supervision, rehabilitative nursing, psychiatric or geriatric nursing. The supervising nurse shall make daily rounds to all nursing units performing such functions as visiting each patient, and reviewing medical records, medication cards, patient care plans, and staff assignments, and whenever possible accompanying physicians when visiting patients.

5. Charge nurse. There shall be at least one (1) registered nurse or licensed practical nurse on duty at all times and who is responsible for the nursing care of patients during her tour of duty. When a licensed practical nurse is on duty, a registered nurse shall be on call.

6. Pharmacist. The facility shall employ a licensed pharmacist on a full-time, part-time or consultant basis to direct pharmaceutical services.

7. Therapists.

a. If rehabilitative services beyond rehabilitative nursing care are offered, whether directly or through cooperative arrangements with agencies that offer therapeutic services, these services shall be provided or supervised by qualified therapists to include licensed physical therapists, speech pathologists and occupational therapists.

b. When supervision is less than full time, it shall be provided on a planned basis and shall be frequent enough, in relation to the staff therapist's training and experience, to assure sufficient review of individual treatment plans and progress.

c. In a facility with an organized rehabilitation service using a multidisciplinary team approach to meet all the needs of the patient, and where all therapists' services are administered under the direct supervision of a physician qualified in physical medicine who will determine goals and limits of the therapists' work, and prescribes modalities and frequency of therapy, persons with qualifications other than those described in subsection (8)(d)7a of this section may be assigned duties appropriate to their training and experience.

8. Dietary. Each facility shall have a full-time person designated by the administrator, responsible for the total food service operation of the facility and who shall be on duty a minimum of thirty-five (35) hours each week.

9. The administrator shall designate a person for each of the following areas who will be responsible for:

a. Medical records. The person responsible for the records shall maintain, complete and preserve all medical records. If the person is not a qualified medical record practitioner he shall be trained by and receive regular consultation from a qualified medical record practitioner.

b. Social services. There shall be a full-time or part-time social worker employed by the facility, or a person who has training and experience in related fields to find community resources, to be responsible for the social services. If the facility does not have a qualified social worker on its staff, consultation shall be provided by a qualified social worker. The person responsible for this area of service shall have information promptly available on health and welfare resources in the community.

c. Patient activities. This person shall have training or experience in directing group activities.

(e) In-service educational programs.

1. There shall be an in-service education program in effect for all nursing personnel at regular intervals in addition to a thorough job orientation for new personnel. Opportunities shall be provided for nursing personnel to attend training courses in rehabilitative nursing and other educational programs related to the care of long-term patients. Skill training for nonprofessional nursing personnel shall begin during the orientation period, to include demonstration, practice and supervision of simple nursing procedures applicable in the individual facility. It shall also include simple rehabilitative nursing procedures to be followed in emergencies. All patient care personnel shall be instructed and supervised in the care of emotionally disturbed and confused patients, and shall be assisted to understand the social aspects of patient care.

2. Social services training of staff. There shall be provisions for orientation and in-service training of staff directed toward understanding emotional problems and social needs of sick and infirm aged persons and

recognition of social problems of patients and the means of taking appropriate action in relation to them. Either a qualified social worker on the staff, or one (1) from outside the facility, shall participate in training programs, case conferences, and arrangements for staff orientation to community services and patient needs.

(10) Medical records.

(a) The facility shall develop and maintain a system of records retention and filing to insure completeness and prompt location of each patient's record. The records shall be held confidential. The records shall be in ink or typed and shall be legible. Each entry shall be dated and signed. Each record shall include:

1. Identification data including the patient's name, address and social security number (if available); name, address and telephone number of referral agency; name and telephone number of personal physician; name, address and telephone number of next of kin or other responsible person; and date of admission.

2. Admitting medical evaluation including current medical findings, medical history, physical examination and diagnosis. (The medical evaluation may be a copy of the discharge summary or history and physical report from a hospital, or an intermediate care facility if done within five (5) days prior to admission.)

3. The physician's orders for medication, diet, and therapeutic services. These shall be dated and signed by the physician.

4. Physician's progress notes describing significant changes in the patient's condition, written at the time of each visit.

5. Findings and recommendations of consultants.

6. A medication sheet which contains the date, time given, name of each medication or prescription number, dosage and name of prescribing physician.

7. Nurse's notes indicating changes in patient's condition, actions, responses, attitudes, appetite, etc. Nursing personnel shall make notation of response to medications, response to treatments, visits by physician and phone calls to the physician, medically prescribed diets and restorative nursing measures.

8. Nursing supervisor's written assessment of the patient's monthly general condition.

9. Reports of dental, laboratory and x-ray services.

10. Changes in patient's response to the activity and therapeutic recreation program.

11. A discharge summary completed, signed and dated by the attending physician within one (1) month of discharge from the facility.

(b) Retention of records. After death or discharge the completed medical record shall be placed in an inactive file and retained for five (5) years or in case of a minor, three (3) years after the patient reaches the age of majority under state law, whichever is the longest.

Section 4. Provision of Services. (1) Physician services.

(a) The health care of each patient shall be under supervision of a physician who, based on an evaluation of the patient's immediate and long-term needs, prescribes a planned regimen of medical care which covers indicated medications, treatments, rehabilitative services, diet, special procedures recommended for the health and safety of the patient, activities, plans for continuing care and discharge.

(b) Patients shall be evaluated by a physician at least once every thirty (30) days for the first ninety (90) days following admission. Subsequent to the 90th day following admission, the patients shall be evaluated by a physician every sixty (60) days. There shall be evidence in the patient's medical record of the physician's visits to the patient at appropriate intervals.

(c) There shall be evidence in the patient's medical record that the patient's attending physician has made arrangement for the medical care of the patient in the physician's absence.

(d) Availability of physicians for emergency care. The facility shall have arrangements with one (1) or more physicians who will be available to furnish necessary medical care in case of an emergency if the physician responsible for the care of the patient is not immediately available. A schedule listing the names and telephone numbers of these physicians and the specific days each shall be on call shall be posted in each nursing station. There shall be established procedures to be followed in an emergency, which cover immediate care of the patient, persons to be notified, and reports to be prepared.

(2) Nursing services.

(a) Twenty-four (24) hour nursing service. There shall be twenty-four (24) hour nursing service with a sufficient number of nursing personnel on duty at all times to meet the total needs of patients. Nursing personnel shall include registered nurses, licensed practical nurses, aides and orderlies. The amount of nursing time available for patient care shall be exclusive of nonnursing duties. Sufficient nursing time shall be available to assure that each patient:

1. Shall receive treatments, medication, and diets as prescribed;

2. Shall receive proper care to prevent decubiti and shall be kept comfortable, clean and well-groomed;

3. Shall be protected from accident and injury by the adoption of indicated safety measures;

1. Shall be treated with kindness and respect.

(b) Rehabilitative nursing care. There shall be an active program of rehabilitative nursing care directed toward assisting each patient to achieve and maintain his highest level of self-care and independence.

1. Rehabilitative nursing care initiated in the hospital shall be continued immediately upon admission to the facility.

2. Nursing personnel shall be taught rehabilitative nursing measures and shall practice them in their daily care of patients. These measures shall include:

a. Maintaining good body alignment and proper positioning of bedfast patients;

b. Encouraging and assisting bedfast patients to change positions at least every two (2) hours, day and night to stimulate circulation and prevent decubiti and deformities;

c. Making every effort to keep patients active and out of bed for reasonable periods of time, except when contraindicated by physician's orders, and encouraging patients to achieve independence in activities of daily living by teaching self care, transfer and ambulation activities;

d. Assisting patients to adjust to their disabilities, to use their prosthetic devices,

and to redirect their interests if necessary;

e. Assisting patients to carry out prescribed physical therapy exercises between visits of the physical therapist.

(c) Dietary supervision. Nursing personnel shall assure that patients are served diets as prescribed. Patients needing help in eating shall be assisted promptly upon receipt of meals. Food and fluid intake of patients shall be observed and deviations from normal shall be reported to the charge nurse. Persistent unresolved problems shall be reported to the physician.

(d) Nursing care plan. There shall be written nursing care plans for each patient based on the nature of illness, treatment prescribed, long and short term goals and other pertinent information.

1. The nursing care plan shall be a personalized, daily plan for individual patients. It shall indicate what nursing care is needed, how it can best be accomplished for each patient, what are the patient's preferences, what methods and approaches are most successful, and what modifications are necessary to insure best results.

2. Nursing care plans shall be available for use by all nursing personnel.

3. Nursing care plans shall be reviewed and revised as needed.

4. Relevant nursing information from the nursing care plan shall be included with other medical information when patients are transferred.

(3) Specialized rehabilitative services.

(a) Rehabilitative services shall be provided upon written order of the physician which indicates anticipated goals and prescribed specific modalities to be used and frequency of physical, speech and occupational therapy services.

(b) Therapy services shall include:

1. Physical therapy which includes:

a. Assisting the physician in his evaluation of patients by applying muscle, nerve, joint, and functional ability tests;

b. Treating patients to relieve pain, develop or restore functions, and maintain maximum performance, using physical means such as exercise, massage, heat, water, light, and electricity.

2. Speech therapy which include:

a. Services in speech pathology or audiology;

b. Cooperation in the evaluation of patients with speech, hearing, or language disorders;

c. Determination and recommendation of appropriate speech and hearing services.

3. Occupational therapy services which includes:

a. Assisting the physician in his evaluation of the patient's level of function by applying diagnostic and prognostic tests;

b. Guiding the patient in his use of therapeutic creative and self-care activities for improving function.

(c) Therapists shall collaborate with the facility's medical and nursing staff in developing the patient's total plan of care.

(d) Ambulation and therapeutic equipment. Commonly used ambulation and therapeutic equipment necessary for services offered shall be available for use in the facility such as parallel bars, hand rails, wheelchairs, walkers, walkerettes, crutches and canes. The therapists shall advise the administrator concerning the purchase, rental, storage and maintenance of equipment and supplies.

(4) Personal care services. Personal care services shall include: assistance with bathing, shaving, cleaning and trimming of fingernails and toenails, cleaning of the mouth and teeth, and washing, grooming and cutting of hair.

(5) Pharmaceutical services.

(a) Procedures for administration of pharmaceutical services. The facility shall provide appropriate methods and procedures for obtaining, dispensing and administering of drugs and biologicals, which have been developed with the advice of a staff pharmacist, or a consultant pharmacist, in cooperation with the facility's pharmacy and therapeutics committee.

(b) If the facility has a pharmacy department, a licensed pharmacist shall be employed to administer the pharmacy department.

(c) If the facility does not have a pharmacy department, it shall have provisions for promptly and conveniently obtaining prescribed drugs and biologicals from a community or institutional pharmacy holding a valid pharmacy permit issued by the Kentucky Board of Pharmacy, pursuant to KRS 315.035.

(d) If the facility does not have a pharmacy department, but does maintain a supply of drugs:

1. The consultant pharmacist shall be responsible for the control of all bulk drugs and maintain records of their receipt and disposition.

2. The consultant pharmacist shall dispense drugs from the drug supply, properly label them and make them available to appropriate licensed nursing personnel.

3. Provisions shall be made for emergency withdrawal of medications from the drug supply.

(e) An emergency medication kit approved by the facility's professional personnel shall be kept readily available. The facility shall maintain a record of what drugs are in the kit and document how the drugs are used.

(f) Medication services.

1. Conformance with physician's orders. All medications administered to patients shall be ordered in writing by the patient's physician. Telephone orders shall be given only to a licensed nurse or pharmacist immediately reduced to writing, signed by the nurse and countersigned by the physician within forty-eight (48) hours. Medications not specifically limited as to time or number of doses, when ordered, shall be automatically stopped in accordance with the facility's written policy or stop orders. The registered nurse or the pharmacist shall review each patient's medication profile at least monthly. The prescribing physician shall review each patient's medications at the time of the medical evaluation pursuant to subsection (1)(b) of this section. The patient's attending physician shall be notified of stop order policies and contacted promptly for renewal of such orders so that continuity of the patient's therapeutic regimen is not interrupted. Medications are to be released to patients on discharge only on the written authorization of the physician.

2. Administration of medications. All medications shall be administered by licensed medical or nursing personnel in accordance with the Medical Practice Act (KRS 311.530 to 311.620) and Nurse Practice Act of (KRS Chapter 314), or by personnel who have completed a state approved training program from a state approved

training provider. The administration of oral and topical medicines by certified medicine technicians shall be under the supervision of licensed medical or nursing personnel. Intramuscular injections shall be administered by a licensed nurse or a physician. If intravenous injections are necessary they shall be administered by a licensed physician or a registered nurse. Each dose administered shall be recorded in the medical record.

a. The nursing station shall have readily available items necessary for the proper administration of medications.

b. In administering medications, medication cards or other state approved systems shall be used and checked against the physician's orders.

c. Medications prescribed for one (1) patient shall not be administered to any other patient.

d. Self-administration of medications by patients shall not be permitted except on special order of the patient's physician or in a predischarge program under the supervision of a licensed nurse.

e. Medication errors and drug reactions shall be immediately reported to the patient's physician and an entry thereof made in the patient's medical record as well as on an incident report.

f. Up-to-date medication reference texts and sources of information shall be provided for use by the nursing staff (e.g., the American Hospital Formulary Service of the American Society of Hospital Pharmacists, Physicians Desk Reference or other suitable references).

3. Labeling and storing medications.

a. All medications shall be plainly labeled with the patient's name, the name of the drug, strength, name of pharmacy, prescription number, date, physician name, caution statements and directions for use except where accepted modified unit dose systems conforming to federal and state laws are used. The medications of each patient shall be kept and stored in their original containers and transferring between containers shall be prohibited. All medicines kept by the facility shall be kept in a locked place and the persons in charge shall be responsible for giving the medicines and keeping them under lock and key. Medications requiring refrigeration shall be kept in a separate locked box of adequate size in the refrigerator in the medication area. Drugs for external use shall be stored separately from those administered by mouth and injection. Provisions shall also be made for the locked separate storage of medications of deceased and discharged patients until such medication is surrendered or destroyed in accordance with federal and state laws and regulations.

b. Medication containers having soiled, damaged, incomplete, illegible, or makeshift labels shall be returned to the issuing pharmacist or pharmacy for relabeling or disposal. Containers having no labels shall be destroyed in accordance with state and federal laws.

c. Cabinets shall be well lighted and of sufficient size to permit storage without crowding.

d. Medications no longer in use shall be disposed of or destroyed in accordance with federal and state laws and regulations.

e. Medications having an expiration date shall be removed from usage and properly disposed of after such date.

f. Controlled substances. Controlled substances shall be kept under double lock (e.g., in a locked box in a locked cabinet). There shall be a controlled substances record, in which is recorded the name of the patient, the date, time, kind, dosage, balance, remaining and method of administration of all controlled substances; the name of the physician who prescribed the medications; and the name of the nurse who administered it, or staff who supervised the self-administration. In addition, there shall be a recorded and signed schedule II controlled substances count daily, and schedule III, IV and V controlled substances count once per week by those persons who have access to controlled substances. All controlled substances which are left over after the discharge or death of the patient shall be destroyed in accordance with KRS 218A.230, or 21 CFR 1307.21, or sent via registered mail to the Controlled Substances Enforcement Branch of the Kentucky Cabinet for Human Resources.

4. Use of restraints or protective devices. If a patient becomes disturbed or unmanageable, the patient's physician shall be notified in order to evaluate and direct the patient's care. No form of restraints or protective devices shall be used except under written orders of the attending physician.

a. Protective devices. Protective devices may be used to protect the patient from falling from a bed or chair. The least restrictive form of protective device shall be used which affords the patient the greatest possible degree of mobility. In no case shall a locking device be used.

b. Physical restraint. Restraints that require lock and key shall not be used. In an emergency, restraints may be used temporarily, but in no case for a period to exceed twelve (12) hours. Restraints shall be applied only by personnel trained in the proper application and observation of this equipment. Restraints shall be checked at least every one-half (1/2) hour and released at least ten (10) minutes every two (2) hours. The checks and releases of restraints shall be recorded in the patient's medical record as they are completed. Such reports shall document the rationale or justification for the use of the procedure, a description of the specific procedures employed, and the physician's order. Restraints shall be used only as a therapeutic measure to prevent the patient from causing physical harm to self or others. Restraints shall not be used as a punishment, as discipline, as a convenience for the staff, or as a mechanism to produce regression. Restraints shall be comfortable and easily removed in case of an emergency.

c. Chemical restraints. Chemical restraints shall not be used as punishment, for the convenience of the staff, as a substitute for programs, or in quantities that interfere with the patient's habilitation.

5. Infection control and communicable diseases.

a. There shall be written infection control policies, which are consistent with the Centers for Disease Control guidelines including:

(i) Policies which address the prevention of disease transmission to and from patients, visitors and employees, including:

i. Universal blood and body fluid precautions;

ii. Precautions for infections which can be transmitted by the airborne route; and

iii. Work restrictions for employees with

infectious diseases.

(ii) Policies which address the cleaning, disinfection, and sterilization methods used for equipment and the environment.

b. The facility shall provide in-service education programs on the cause, effect, transmission, prevention and elimination of infections for all personnel responsible for direct patient care.

c. Sharp wastes.

(i) Sharp wastes, including needles, scalpels, razors, or other sharp instruments used for patient care procedures, shall be segregated from other wastes and placed in puncture resistant containers immediately after use.

(ii) Needles shall not be recapped by hand, purposely bent or broken, or otherwise manipulated by hand.

(iii) The containers of sharp wastes shall either be incinerated on or off site, or be rendered nonhazardous by a technology of equal or superior efficacy, which is approved by both the Cabinet for Human Resources and the Natural Resources and Environmental Protection Cabinet.

d. Disposable waste.

(i) All disposable waste shall be placed in suitable bags or closed containers so as to prevent leakage or spillage, and shall be handled, stored, and disposed of in such a way as to minimize direct exposure of personnel to waste materials.

(ii) The facility shall establish specific written policies regarding handling and disposal of all wastes.

(iii) The following wastes shall be disposed of by incineration, autoclaved before disposal, or carefully poured down a drain connected to a sanitary sewer: blood, blood specimens, used blood tubes, or blood products.

(iv) Any wastes conveyed to a sanitary sewer shall comply with applicable federal, state, and local pretreatment regulations pursuant to 40 CFR 403 and 401 KAR 5:055, Section 9.

e. Patients infected with the following diseases shall not be admitted to the facility: anthrax, campylobacteriosis, cholera, diphtheria, hepatitis A, measles, pertussis, plague, poliomyelitis, rabies (human), rubella, salmonellosis, shigellosis, typhoid fever, yersiniosis, brucellosis, giardiasis, leprosy, psittacosis, Q fever, tularemia, and typhus.

f. A facility may admit a (noninfectious) tuberculosis patient under continuing medical supervision for his tuberculosis disease.

g. Patients with active tuberculosis may be admitted to the facility whose isolation facilities and procedures have been specifically approved by the cabinet.

h. If, after admission, a patient is suspected of having a communicable disease that would endanger the health and welfare of other patients the administrator shall assure that a physician is contacted and that appropriate measures are taken on behalf of the patient with the communicable disease and the other patients.

(6) Diagnostic services. The facility shall have provisions for obtaining required clinical laboratory, x-ray and other diagnostic services. Laboratory services may be obtained from a laboratory which is part of a licensed hospital or a laboratory licensed pursuant to KRS 333.030 and any regulations promulgated thereunder. Radiology services shall be obtained from a service licensed or registered pursuant to KRS 211.842 to 211.852 and any regulations promulgated thereunder. If the facility provides its own diagnostic services, the service shall meet the applicable laws and regulations. All diagnostic services shall be provided only on the request of a physician. The physician shall be notified promptly of the test results. Arrangements shall be made for the transportation of patients, if necessary, to and from the source of service. Simple tests, such as those customarily done by nursing personnel for diabetic patients may be done in the facility. All reports shall be included in the medical record.

(7) Dental services. The facility shall assist patients to obtain regular and emergency dental care. Provision for dental care: patients shall be assisted to obtain regular and emergency dental care. An advisory dentist shall provide consultation, participate in in-service education, recommend policies concerning oral hygiene, and shall be available in case of emergency. The facility, when necessary, shall arrange for the patient to be transported to the dentist's office. Nursing personnel shall assist the patient to carry out the dentist's recommendations.

(8) Social services.

(a) Provision for medically related social needs. The medically related social needs of the patient shall be identified, and services provided to meet them, in admission of the patient, during his treatment and care in the facility, and in planning for his discharge.

1. As a part of the process of evaluating a patient's need for services in a facility and whether the facility can offer appropriate care, emotional and social factors shall be considered in relation to medical and nursing requirements.

2. As soon as possible after admission, there shall be an evaluation, based on medical, nursing and social factors, of the probable duration of the patient's need for care and a plan shall be formulated and recorded for providing such care.

3. Where there are indications that financial help will be needed, arrangements shall be made promptly for referral to an appropriate agency.

4. Social and emotional factors related to the patient's illness, to his response to treatment and to his adjustment to care in the facility shall be recognized and appropriate action shall be taken when necessary to obtain casework services to assist in resolving problems in these areas.

5. Knowledge of the patient's home situation, financial resources, community resources available to assist him, and pertinent information related to his medical and nursing requirements shall be used in making decisions regarding his discharge from the facility.

(b) Confidentiality of social data. Pertinent social data, and information about personal and family problems related to the patient's illness and care shall be made available only to the attending physician, appropriate members of the nursing staff, and other key personnel who are directly involved in the patient's care, or to recognized health or welfare agencies. There shall be appropriate policies and procedures for assuring the confidentiality of such information.

1. The staff member responsible for social services shall participate in clinical staff conferences and confer with the attending physician at intervals during the patient's stay in the facility, and there shall be evidence in

the record of such conferences.

2. The staff member and nurses responsible for the patient's care shall confer frequently and there shall be evidence of effective working relationships between them.

3. Records of pertinent social information and of action taken to meet social needs shall be maintained for each patient. Signed social service summaries shall be entered promptly in the patient's medical record for the benefit of all staff involved in the care of the patient.

(9) Patient activities. Activities suited to the needs and interests of patients shall be provided as an important adjunct to the active treatment program and to encourage restoration to self-care and resumption of normal activities. Provision shall be made for purposeful activities which are suited to the needs and interests of patients.

(a) The activity leader shall use, to the fullest possible extent, community, social and recreational opportunities.

(b) Patients shall be encouraged but not forced to participate in such activities. Suitable activities are provided for patients unable to leave their rooms.

(c) Patients who are able and who wish to do so shall be assisted to attend religious services.

(d) Patients' request to see their clergymen shall be honored and space shall be provided for privacy during visits.

(e) Visiting hours shall be flexible and posted to permit and encourage visiting friends and relatives.

(f) The facility shall make available a variety of supplies and equipment adequate to satisfy the individual interests of patients. Examples of such supplies and equipment are: books and magazines, daily newspapers, games, stationery, radio and television and the like.

(10) Residential services.

(a) Dietary services. The facility shall provide or contract for food service to meet the dietary needs of the patients including modified diets or dietary restrictions as prescribed by the attending physician. When a facility contracts for food service with an outside food management company, the company shall provide a qualified dietician on a full-time, part-time or consultant basis to the facility. The qualified dietician shall have continuing liaison with the medical and nursing staff of the facility for recommendations on dietetic policies affecting patient care. The company shall comply with all of the appropriate requirements for dietary services in this regulation.

1. Therapeutic diets. If the designated person responsible for food service is not a qualified dietician or nutritionist, consultation by a qualified dietician or qualified nutritionist shall be provided.

2. Dietary staffing. There shall be sufficient food service personnel employed and their working hours, schedules of hours, on duty and days off shall be posted. If any food service personnel are assigned duties outside the dietary department, the duties shall not interfere with the sanitation, safety or time required for regular dietary assignments.

3. Menu planning.

a. Menus shall be planned, written and rotated to avoid repetition. Nutrition needs shall be met in accordance with the current recommended dietary allowances of the Food and Nutrition Board of the National Research Council adjusted for age, sex and activity, and in accordance with physician's orders.

b. Meals shall correspond with the posted menu. Menus must be planned and posted one (1) week in advance. When changes in the menu are necessary, substitutions shall provide equal nutritive value and the changes shall be recorded on the menu and all menus shall be kept on file for thirty (30) days.

c. The daily menu shall include daily diet for all modified diets served within the facility based on an approved diet manual. The diet manual shall be a current manual with copies available in the dietary department that has the approval of the professional staff of the facility. The diet manual shall indicate nutritional deficiencies of any diet. The dietician shall correlate and integrate the dietary aspects of the patient care with the patient and patient's chart through such methods as patient instruction, recording diet histories, and participation in rounds and conference.

4. Food preparation and storage.

a. There shall be at least a three (3) day supply of food to prepare well-balanced palatable meals. Records of food purchased for preparation shall be on file for thirty (30) days.

b. Food shall be prepared with consideration for any individual dietary requirement. Modified diets, nutrient concentrates and supplements shall be given only on the written orders of a physician.

c. At least three (3) meals per day shall be served with not more than a fifteen (15) hour span between the substantial evening meal and breakfast. Between-meal snacks to include an evening snack before bedtime shall be offered to all patients. Adjustments shall be made when medically indicated.

d. Foods shall be prepared by methods that conserve nutritive value, flavor and appearance and shall be attractively served at the proper temperatures, and in a form to meet the individual needs. A file of tested recipes, adjusted to appropriate yield shall be maintained. Food shall be cut, chopped or ground to meet individual needs. If a patient refuses foods served, nutritional substitutions shall be offered.

e. All opened containers or left over food items shall be covered and dated when refrigerated.

5. Serving of food. When a patient cannot be served in the dining room, trays shall be provided for bedfast patients and shall rest on firm supports such as overbed tables. Sturdy tray stands of proper height shall be provided for patients able to be out of bed.

a. Correct positioning of the patient to receive his tray shall be the responsibility of the direct patient care staff. Patients requiring help in eating shall be assisted within a reasonable length of time.

b. Adaptive self-help devices shall be provided to contribute to the patient's independence in eating.

6. Sanitation. All facilities shall comply with all applicable provisions of KRS 219.011 to KRS 219.081 and 902 KAR 45:005 (Kentucky's Food Service Establishment Act and Food Service Code).

(b) Housekeeping and maintenance services.

1. The facility shall maintain a clean and

safe facility free of unpleasant odors. Odors shall be eliminated at their source by prompt and thorough cleaning of commodes, urinals, bedpans and other obvious sources.

2. An adequate supply of clean linen shall be on hand at all times. Soiled clothing and linens shall receive immediate attention and shall not be allowed to accumulate. Clothing or bedding used by one (1) patient shall not be used by another until it has been laundered or dry cleaned.

3. Soiled linen shall be placed in washable or disposable containers, transported in a sanitary manner and stored in separate, well-ventilated areas in a manner to prevent contamination and odors. Equipment or areas used to transport or store soiled linen shall not be used for handling or storing of clean linen.

4. Soiled linen shall be sorted and laundered in the soiled linen room in the laundry area. Hand-washing facilities with hot and cold water, soap dispenser and paper towels shall be provided in the laundry area.

5. Clean linen shall be sorted, dried, ironed, folded, transported, stored and distributed in a sanitary manner.

6. Clean linen shall be stored in clean linen closets on each floor, close to the nurses' station.

7. Personal laundry of patients or staff shall be collected, transported, sorted, washed and dried in a sanitary manner, separate from bed linens.

8. Patients' personal clothing shall be laundered as often as is necessary. Laundering of patients' personal clothing shall be the responsibility of the facility unless the patient or the patient's family accepts this responsibility. Patient's personal clothing laundered by or through the facility shall be marked to identify the patient-owner and returned to the correct patient.

9. Maintenance. The premises shall be well kept and in good repair. Requirements shall include:

a. The facility shall insure that the grounds are well kept and the exterior of the building, including the sidewalks, steps, porches, ramps and fences are in good repair.

b. The interior of the building including walls, ceilings, floors, windows, window coverings, doors, plumbing and electrical fixtures shall be in good repair. Windows and doors shall be screened.

c. Garbage and trash shall be stored in areas separate from those used for the preparation and storage of food and shall be removed from the premises regularly. Containers shall be cleaned regularly.

d. A pest control program shall be in operation in the facility. Pest control services shall be provided by maintenance personnel of the facility or by contract with a pest control company. The compounds shall be stored under lock.

(c) Room accommodations.

1. Each patient shall be provided a standard size bed or the equivalent at least thirty-six (36) inches wide, equipped with substantial springs, a clean comfortable mattress, a mattress cover, two (2) sheets and a pillow, and such bed covering as is required to keep the patients comfortable. Rubber or other impervious sheets shall be placed over the mattress cover whenever necessary. Beds occupied by patients shall be placed so that no patient may experience discomfort because of proximity to radiators, heat outlets, or by exposure to drafts.

2. The facility shall provide window coverings, bedside tables with reading lamps (if appropriate), comfortable chairs, chest or dressers with mirrors, a night light, and storage space for clothing and other possessions.

3. Patients shall not be housed in unapproved rooms or unapproved detached buildings.

4. Basement rooms shall not be used for sleeping rooms for patients.

5. Patients may have personal items and furniture when it is physically feasible.

6. There shall be a sufficient number of tables provided that can be rolled over a patient's bed or be placed next to a bed to serve patients who cannot eat in the dining room.

7. Each living room or lounge area and recreation area shall have an adequate number of reading lamps, and tables and chairs or settees of sound construction and satisfactory design.

8. Dining room furnishings shall be adequate in number, well constructed and of satisfactory design for the patients.

9. Each patient shall be permitted to have his own radio and television set in his room unless it interferes with or is disturbing to other patients.

CLAY CESSNA, Inspector General
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: November 2, 1990
FILED WITH LRC: November 6, 1990 at 9 a.m.

PROPOSED AMENDMENTS RECEIVED AS OF NOON, NOVEMBER 15, 1990

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY
(Proposed Amendment)

11 KAR 7:010. Incentive loan program; mathematics and science.

RELATES TO: KRS 164.768 [156.611]
STATUTORY AUTHORITY: KRS [156.611(10),] 164.748(4), 164.768(10)
NECESSITY AND FUNCTION: KRS 164.768 [156.611] establishes the Math/Science incentive loan program for awarding incentive loans to persons declaring an intention to serve and who actually render service in the critical teacher shortage fields of mathematics and science. Section 39 of House Bill 6, enacted in the 1985 extraordinary session of the General Assembly, amended KRS 156.611 to transfer administration of this program from the Department of Education to the Kentucky Higher Education Assistance Authority. It is necessary to the administration of the program that the Assistance Authority promulgate this regulation to prescribe rules for the administration of the program. Section 1 of House Bill 74, enacted in the 1988 regular session of the General Assembly, repealed KRS 156.611 and reenacted those provisions as KRS 164.768. This amendment is necessary and intended only to correct the statutory citation.

Section 1. Definitions. (1) "Public school" means a common school operated under the laws of the Commonwealth of Kentucky.

(2) "Semester" means a period of about eighteen (18) weeks, which usually makes up one-half (1/2) of a public school year or one-half (1/2) of a participating institution's academic year.

(3) "Qualified teaching service" means employment in a critical shortage field in grades seven (7) through twelve (12) in a public school in a position requiring a Kentucky teacher's certificate for a major portion of a school day for at least seventy (70) days during a semester.

(4) "Participating institution" means an institution of higher education located in Kentucky, which is approved by the State Board of Education to offer teacher education programs, and which has in force an agreement with the authority providing for administration of this program.

(5) "Critical shortage field" means the teaching fields of mathematics and science specified in KRS 164.768.

(6) "Qualified teacher education program" means a program of study in a mathematics or science major or area of concentration leading to teacher certification in one (1) of the critical shortage fields.

Section 2. [1.] The Kentucky Higher Education Assistance Authority (authority) shall, to the extent of appropriations for such purpose, award Math/Science Incentive Loans (loans) to persons enrolled or accepted for enrollment in a Qualified Teacher Education Program on a full-time basis at a participating institution approved by the State Board of Education to offer Qualified Teacher Education Programs, who declare an intention to teach in one (1) of the critical shortage fields in the public schools of the Commonwealth, and who meet the eligibility requirements set forth herein. Persons already possessing certification in one (1) of the critical shortage fields may be awarded loans to pursue certification in a different critical shortage field only upon a statement by the local school district superintendent of exceptional need for a teacher in that field.

[Section 2. Definitions. (1) "Public school" means a common school operated under the laws of the Commonwealth of Kentucky.]

[(2) "Semester" means a period of about eighteen (18) weeks, which usually makes up one-half (1/2) of a public school year or one-half (1/2) of a participating institution's academic year.]

[(3) "Qualified teaching service" means employment in a critical shortage field in grades seven (7) through twelve (12) in a public school in a position requiring a Kentucky teacher's certificate for a major portion of a school day for at least seventy (70) days during a semester.]

[(4) "Participating institution" means an institution of higher education located in Kentucky, which is approved by the State Board of Education to offer teacher education programs, and which has in force an agreement with the authority providing for administration of this program.]

[(5) "Critical shortage field" means the teaching fields of mathematics and science specified in KRS 156.611.]

[(6) "Qualified teacher education program" means a program of study in a mathematics or science major or area of concentration leading to teacher certification in one (1) of the critical shortage fields.]

Section 3. Teacher Recertification Eligibility. (1) Up to thirty (30) percent of the annual appropriation for KRS 164.768 [156.611] will be loaned to certified teachers who do not possess certification in one of the critical shortage fields, who have been admitted to a qualified teacher education program, approved by the State Board of Education, at a participating institution as a summer school student, and who plan to complete requirements for certification in the specified critical shortage field. An individual who owes repayment of a grant or work-study award, or who is in default in repayment of any loan owed to the authority, is not eligible to receive a loan until such financial obligations to the authority are satisfied, provided, however, that ineligibility for this reason may be waived, at the recommendation of a designated staff review committee for cause.

(2) Eligible applicants for such loans must already possess a Kentucky teacher certificate.

(3) For first time eligible applicants, priority for such loans will be given in rank order established on the basis of the following weighted criteria:

(a) Relative need for teachers within the critical shortage field as determined by the Department of Education or a survey of local school district superintendents. Weight: maximum thirty (30) points out of 100.

(b) The applicant's cumulative grade point average for undergraduate study. Weight: maximum twenty-five (25) points for grade point averages in the 3.5 to 4.0 range; maximum twenty (20) points for averages in the 3.0 to 3.4 range; and maximum fifteen (15) points for averages in the 2.5 to 2.9 range.

(c) National Teacher Examination (NTE) or Graduate Record Examination (GRE) scores. Scores of applicants from minority population groups will be measured relative to the average scores for such minority population groups, when available. Weight: maximum twenty (20) points for scores in the ninety (90) to ninety-nine (99) percentile range; maximum fifteen (15) points for scores in the eighty (80) to eighty-nine (89) percentile range; maximum ten (10) points for scores in the seventy (70) to seventy-nine (79) percentile range.

(d) Consideration to teachers teaching out of field in one of the critical shortage fields on or before December 1 of the year preceding the year for which the award is made. Weight: maximum fifteen (15) points out of 100.

(e) Proximity to completion of certification requirements in one of the critical shortage fields. Weight: maximum ten (10) points out of 100.

(4) Once all the criteria in subsection (3) of this section have been evaluated and two (2) or more applicants are equally ranked, selection between the applicants will be made on the basis of the date the application is received by the participating institution.

(5) Certified teachers, who received a loan under this program pursuant to prior regulations, to pursue certification in a critical shortage field on a part-time basis during the regular school year, shall be eligible to receive additional loans in accordance with this regulation to complete such certification. Such loans shall not exceed tuition and institutional fees payable by such a recipient in a qualified teacher education program.

(6) The amount of a summer loan under this section for a recipient shall not exceed the total cost of attendance determined by the participating institution. The maximum summer loan for teachers enrolled full time in a qualified teacher education program shall be $833 per summer session. The aggregate maximum for loans under this section shall be $2500.

Section 4. Student Certification Eligibility. (1) At least seventy (70) percent of the annual appropriation for KRS 164.768 [156.611] will be used to provide incentive loans to persons enrolled full time as a sophomore, junior, or senior in a qualified teacher education program approved by the State Board of Education at a participating institution with the intention of obtaining certification to teach in one of the critical shortage fields. An individual who owes repayment of a grant or work-study award, or who is in default in repayment of any loan owed to the authority, is not eligible to receive a loan until such financial obligations to the authority are satisfied, provided, however, that ineligibility for this reason may be waived, at the sole discretion of the executive director of the authority, for cause.

(2) Eligible applicants for loans must have a grade point average of at least two and five-tenths (2.5) computed on a 4.0 scale.

(3) The participating institution shall establish a screening committee to verify that applicants from that institution are eligible for a loan under this section. The committee will certify that eligible loan applicants have a reasonable chance for completing the qualified teacher education program in the selected major. The committee shall rank all eligible first-time applicants based on the following criteria:

(a) Relative need for teachers within the critical shortage fields as determined by the Department of Education or a survey of local district superintendents. Weight: maximum fifty (50) points.

(b) Cumulative high school grade point average or, for persons holding a bachelor's degree, cumulative undergraduate grade point average. Weight: maximum thirty (30) points for averages in the 3.5 to 4.0 range; maximum twenty (20) points for averages in the 3.0 to 3.4 range; and maximum ten (10) points for averages in the 2.5 to 2.9 range.

(c) College entrance examination score or, for persons holding a bachelor's degree, Graduate Record Examination (GRE) score. Scores of applicants from minority population groups will be measured relative to the norms for such minority population groups, when available. Weight: maximum twenty (20) points for scores in the ninety (90) to ninety-nine (99) percentile range; maximum fifteen (15) points for scores in the eighty (80) to eighty-nine (89) percentile range; maximum ten (10) points for scores in the seventy (70) to seventy-nine (79) percentile range.

(4) Once all criteria in subsection (3) of this section have been evaluated and two (2) or more applicants are equally ranked, priority shall be given first to graduates of Kentucky high schools and second to Kentucky residents, and then based upon the date the application is received by the participating institution

(5) The amount of loan under this section for a student shall not exceed the student's total cost of attendance determined by the participating institution. The maximum amount of loan for recipients under this section shall be $1,250 per semester or $2,500 per academic year. Summer school loans shall not exceed $833, and shall be in addition to the academic year maximum. The aggregate maximum for loans under this section shall be $7,500.

Section 5. Application. Applications for loans will be received, evaluated and verified by the screening committee at the participating institution where the applicant intends to enroll. Applications must be submitted by a deadline set annually by the authority. The participating institution shall forward the applications, ranking, and supporting documentation of the eligible applicants to the authority. Loans for summer session attendance shall be made upon separate application.

Section 6. Renewal. Applicants who have successfully completed one (1) or more summer sessions or semesters in the program, maintain a two and five-tenths (2.5) grade point average computed on a 4.0 scale and make normal progress toward completion of certification requirements in one (1) of the critical shortage fields, as determined by the participating institution, qualify for subsequent loans, upon application, and shall receive priority over new applicants.

Loans pursuant to Section 3 of this regulation shall be renewed for a maximum of two (2) summer sessions.

Section 7. Use of Loan Proceeds. Proceeds of a loan under Sections 3 or 4 of this regulation shall be used by the recipient first for payment of tuition and other institutional charges payable by the recipient to the participating institution, and thereafter for other educational related expenses.

Section 8. Reallocation of Funds. (1) principal and interest paid by recipients, and any money not utilized under Section 3 of this regulation shall be used to make additional loans under Section 4 of this regulation.

(2) In the event that funds are not sufficient to award all applicants, loans shall first be awarded to those qualifying applicants who previously received loans. In the event that funds are insufficient to award all prior recipients who are qualified applicants, then loans shall be prorated in accordance with the cumulative amount previously received by the applicant. If funds are sufficient to award new applicants, an award shall be made first to the applicant with the highest score on the selection criteria and, thereafter, in descending order to persons having lower scores until all available funds are exhausted.

Section 9. Disbursements. Disbursements of loans shall be made at the beginning of each semester or summer session and such disbursement shall be evidenced by a promissory note, prescribed by the authority, in which the loan recipient shall agree to repay the loan or render qualified teaching service in lieu thereof.

Section 10. Notifications. Recipients shall notify the authority within thirty (30) days of:

(1) Change in enrollment status;

(2) Cessation of enrollment in a qualified teacher education program;

(3) Employment in a qualified teaching service position; or

(4) Change of address.

Section 11. Withdrawals. Loan recipients who, prior to completion, cease to be enrolled on a full-time basis in a qualified teacher education program at a participating institution, shall immediately become liable for the repayment to the authority of the sum of all loans received plus interest accrued thereon unless such recipient has an approved deferment pursuant to 11 KAR 7:020. For purposes of this section, teachers seeking recertification in accordance with Section 3 of this regulation are considered enrolled on a full-time basis for so long as they continue to enroll full time in consecutive summer sessions while making normal progress toward completion of certification requirements as determined by the participating institution.

Section 12. Repayment. Recipients who do not begin employment in a qualified teaching service position within the six (6) month period following completion of a qualified teacher education program in a participating institution (excluding periods of deferment pursuant to 11 KAR 7:020) shall immediately become liable to the authority for repayment of principal and interest accrued, pursuant to the earliest promissory note then outstanding. In each semester thereafter, during which a recipient does not render qualified teaching service, repayment of an additional promissory note shall become due, proceeding sequentially from the promissory note having the earliest date to the most recent date.

Section 13. Repayment Schedule. Written notification of demand shall be sent by the authority to the loan recipient's last known address and shall be effective upon mailing. The authority may agree, in its sole discretion, to accept repayment in installments in accordance with a schedule established by the authority. In the event that more than one (1) promissory note has come due for repayment and remains unpaid, then payments shall first be applied to the earliest unpaid promissory note. Payments shall be applied first to accrued interest and then to principal.

Section 14. Cancellation. (1) In order to receive cancellation of a promissory note and the interest thereon, a loan recipient must render qualified teaching service in a public school during a semester. One such promissory note shall be cancelled for each semester during which qualified teaching service is verified to the authority. Such cancellations of promissory notes shall be in sequential order beginning with the earliest promissory note.

(2) In the event that a recipient has received loans or scholarships from more than one (1) program administered by the authority, which require a period of qualified teaching service for repayment or cancellation, such teaching requirements shall not be fulfilled concurrently. Unless the authority determines otherwise for cause, loans or scholarships from more than one (1) program shall be repaid or cancelled by qualified teaching service in the same order in which they were received.

(3) Verification of qualified teaching service shall be submitted to the authority in writing, signed by the local school district superintendent or building principal, within thirty (30) days of the date a loan recipient completes such qualified teaching service.

Section 15. Interest. The interest rate on loans made under KRS 156.611 or 164.768 after July 1, 1986, shall be twelve (12) percent per annum simple interest. The interest rate shall remain fixed for the duration of the loan. Interest accruing on the unpaid principal of each promissory note shall be computed from the date of disbursement of the respective promissory note, and such interest shall continue to accrue until the promissory note is paid in full pursuant to Sections 11 or 12 of this regulation or cancelled pursuant to Section 14 of this regulation. In the event that the loan is not repaid or cancelled in accordance with the terms of the promissory note and related repayment schedule, if any, and judgment is rendered on the debt, then the annual interest rate shall, from the date of such judgment, not exceed four (4) percent in excess of the discount rate on ninety (90) day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve District where the transaction is consummated or nineteen (19) percent, whichever is less, provided that

it shall not be less than the face rate of the promissory note.

Section 16. Records. A participating institution shall maintain complete and accurate records pertaining to the eligibility, enrollment and progress of students receiving aid under this program and the disbursement of funds and institutional charges as may be necessary to audit the disposition of funds hereunder. Such records shall be maintained for at least five (5) years after the student ceases to be enrolled at the participating institution.

Section 17. Refunds. A participating institution shall refund to the authority, within forty (40) days of a recipient's last date of attendance, any amount attributable to this program which is determined to be due under the institution's refund policy.

Section 18. Information Dissemination and Recruitment. The authority shall disseminate information through high school counselors and school superintendents about this program to potential recipients. Participating institutions shall provide assurances that program information will be disseminated to freshmen and sophomores enrolled at that institution. Participating institutions shall actively recruit students from minority population groups for participation in this program.

GEORGE SHAW, Chairman
APPROVED BY AGENCY: October 23, 1990
FILED WITH LRC: October 29, 1990 at 9 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Friday, December 21, 1990 at 10 a.m. at 1050 U.S. 127 South, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by December 17, 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: Paul P. Borden, Executive Director, Kentucky Higher Education Assistance Authority, 1050 U.S. 127 South, Suite 102, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Paul P. Borden
(1) Type and number of entities affected: There is no effect on any entities, either director of indirect. This amendment is intended only to change the statutory citation as necessitated by the repeal by the General Assembly of KRS 156.611 and the reenactment of those provisions as KRS 164.768.
(a) Direct and indirect costs or savings to those affected: There are no costs or savings. This amendment merely corrects the statutory citation necessitated by the repeal by the General Assembly of KRS 156.611 and the reenactment of those provisions as KRS 164.768.
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 are no effects on the promulgating body.
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state and local revenues.
(4) Assessment of alternative methods; reasons why alternatives were rejected: This amendment merely changes the statutory authority as necessitated by the General Assembly.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: The amendment does not conflict, overlap, or duplicate any statute, administrative regulation or government policy.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: This amendment is necessary and intended only to correct the statutory citation.
TIERING: Was tiering applied? No. The concept of tiering is not applicable to the purpose and function of this amendment.

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY
(Proposed Amendment)

11 KAR 7:020. Deferment.

RELATES TO: KRS 164.768 [156.611]
STATUTORY AUTHORITY: KRS [156.611,] 164.748(4), 164.768
NECESSITY AND FUNCTION: KRS 156.611, repealed and reenacted as KRS 164.768 by Section 1 of House Bill 74 of the 1988 regular session of the General Assembly, establishes the Math/Science Incentive Loan Program and provides that the Kentucky Higher Education Assistance Authority (authority) may permit deferment of repayment for cause. This regulation defines "deferment" and establishes conditions under which specified types of deferments may be approved by the authority. This amendment is necessary and is intended only to correct the statutory citation.

Section 1. Definitions. Unless otherwise specified, the words and phrases used herein shall have the same meaning as set forth in 11 KAR 7:010. "Deferment" means a temporary waiver of the obligation of a Math/Science Incentive Loan recipient to make payments to the authority, pursuant to one (1) or more promissory notes executed between the recipient and the authority, which is granted by the authority, for a specified period of time, upon a showing of cause by the recipient.

Section 2. Request for Deferment. The recipient must request a deferment in writing by submitting complete and accurate information on a form prescribed by the authority. The recipient's submission of a request for deferment shall constitute authorization for the authority to request and receive such verification of facts represented by the recipient as may be deemed necessary by the authority.

Section 3. Effect on Repayments. During a deferment, no principal or interest repayments shall be required but interest shall continue to accrue on the unpaid principal balance owed by the recipient. Nothing contained herein shall require the authority to grant a deferment if such deferment would legally impair the ultimate recovery of the principal and accrued interest otherwise owed by the recipient. If, during a deferment, the recipient resumes full-time enrollment in a teacher education program leading to certification in a critical shortage field at a participating institution or renders qualified teaching service, then the deferment shall nullify the commencement of repayment, such that any promissory note so deferred may be subsequently cancelled in accordance with KRS 164.768 [156.611] and 11 KAR 7:010.

Section 4. Types of Deferments. The following deferments may be granted by the authority:

(1) Enrollment deferment. A deferment granted to a recipient who is enrolled on at least a half-time basis at a business school, college, vocational school or school of nursing (as those terms are defined in KRS 164.740) in the United States. The recipient must provide to the authority, at least annually, evidence of such enrollment on properly completed forms provided by the authority.

(2) Disability deferment. A deferment granted to a recipient who is temporarily totally disabled and, therefore, unable to obtain any full-time employment or to attend school; or, a deferment granted to a recipient who is unable to obtain any full-time employment or attend school due to the temporary total disability of the recipient's spouse who requires continuous (twenty-four (24) hour) nursing or similar care by the recipient. For purposes of this deferment, a recipient, or the spouse of a recipient, is temporarily totally disabled if he/she suffers an injury or illness which necessitates an extended or indefinite period of recovery which can be expected to preclude gainful employment or school attendance and, in the case of a recipient's spouse, he/she is not confined to a hospital, nursing home, intermediate care facility, or similar institution. The recipient must provide to the authority a statement from a licensed physician certifying that the recipient or spouse is temporarily totally disabled in accordance with the preceding terms and conditions. The recipient is solely responsible for securing the physician's certifications. This deferment may, at the authority's discretion, be granted for a period not to exceed three (3) years, subject to annual review of a physician's certification. After the third year of any deferment, pursuant to this subsection, the authority may, in its sole discretion, cancel the debt.

(3) Unemployment deferment.

(a) A recipient seeking, but unable to obtain, a qualified teaching service position within six (6) months following completion of a qualified teacher education program at a participating institution may be granted a single deferment for a period not to exceed one (1) year. The recipient must have applied for a qualified teaching service position with at least three (3) public school districts and must not have refused an offer of employment in a qualified teaching service position in such public school districts or in any other public school districts to which the recipient may have applied, and must provide the authority a signed statement which sets forth:

1. The recipient's current address;

2. The names of public school districts to which the recipient has applied for qualified teaching service employment; and,

3. The recipient's agreement to notify the authority when he/she obtains full-time employment in a qualified teaching service position; or,

(b) A recipient seeking, but unable to obtain, any full-time (at least thirty (30) hours per week) employment may be granted a single deferment for a period not to exceed one (1) year. The recipient must provide, on the form prescribed by the authority, a signed statement which sets forth:

1. The recipient's current address;

2. Certification that the recipient has registered with a public or private employment agency, if one is accessible, specifying the name and address of such agency; and,

3. The borrower's agreement to notify the authority within thirty (30) days of a date upon which he/she obtains full-time employment.

If full-time employment is obtained at any time during the period of a deferment approved pursuant to this section, such deferment shall be immediately terminated.

(c) The immediately preceding subsections of this section are alternative ways to qualify for a single deferment for a period not to exceed one (1) year. Pursuant to paragraph (a) of this subsection, a recipient, who is seeking, but unable to obtain, a qualified teaching service position, may receive a deferment even if employed full-time in another type of position. Pursuant to paragraph (b) of this subsection, a recipient, who is not actively seeking a qualified teaching service position, may receive a deferment only if actively seeking and unable to obtain any type of full-time employment.

(4) Parenting deferment. A deferment may be granted by the authority when a recipient interrupts qualified teaching service or enrollment in a qualified teacher education program at a participating institution under an approved leave of absence for purposes of rearing a preschool age child. The borrower must provide to the authority a statement, signed by an authorized representative of the public school district or participating institution, evidencing that such a leave of absence has been approved for the recipient. This deferment shall remain in effect during the period of the leave of absence not to exceed two (2) years. The recipient is solely responsible for securing, at least annually, the required verification of an approved leave of absence.

(5) Hardship deferment. If enrollment in a teacher education program leading to certification in a critical shortage field or employment in a qualified teaching service

position is temporarily interrupted due to circumstances beyond the recipient's control, including, but not limited to, illness, accident or death in the family, after which the recipient intends to resume such enrollment or qualified teaching service position, then the authority may determine that a hardship exists and may grant a single deferment of a period not in excess of one (1) year.

(6) Qualified teaching service deferment.

(a) Deferments may be granted, from time to time, to a recipient who, due to current employment in a qualified teaching service position, may reasonably be expected, solely with the passage of six (6) months or less time, to qualify for cancellation benefits pursuant to 11 KAR 8:010.

(b) In the event that a recipient has received loans or scholarships from more than one (1) program administered by the authority, which require a period of qualified teaching service for repayment or cancellation, and the recipient is either:

1. Obligated to concurrently make cash payments on the Math/Science Incentive Loan and another such program; or

2. Performing qualified teaching service to fulfill the requirement of another such program; then a deferment of repayment of the Math/Science Incentive Loan may be granted during the period in which the recipient is making payments or performing qualified teaching service in accordance with the requirements of the other program.

GEORGE SHAW, Chairman

APPROVED BY AGENCY: October 23, 1990

FILED WITH LRC: October 29, 1990 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Friday, December 21, 1990 at 10 a.m. at 1050 U.S. 127 South, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by December 17, 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: Paul P. Borden, Executive Director, Kentucky Higher Education Assistance Authority, 1050 U.S. 127 South, Suite 102, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Paul P. Borden

(1) Type and number of entities affected: There is no effect on any entities, either director of indirect. This amendment is intended only to change the statutory citation as necessitated by the repeal by the General Assembly of KRS 156.611 and the reenactment of those provisions as KRS 164.768.

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

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body: The amendment has absolutely no effect on the promulgating administrative body.

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: There is no effect on state and local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable; the amendment merely changes the statutory citation.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not applicable.

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: The sole purpose and function of the amendment is to change the statutory citation.

TIERING: Was tiering applied? No. The concept of tiering is not applicable to the purpose and function of this amendment.

REVENUE CABINET
Department of Administrative Services
(Proposed Amendment)

103 KAR 17:080. Retirement income.

RELATES TO: KRS 6.525, 21.470, 61.690, 141.021, 164.2871

STATUTORY AUTHORITY: KRS Chapter 13A, 131.130

NECESSITY AND FUNCTION: This regulation describes certain retirement income which is exempt [or partially exempt] from Kentucky income tax [and provides rules for calculating the exempt portion of such income].

Section 1. General. Retirement income, with exceptions explained below, is included in gross income under the provisions of the Internal Revenue Code.

Section 2. Exempt Retirement Income. Retirement income received from the Social Security Administration and the Railroad Retirement Board (including supplemental benefits) is exempt from income tax. The following retirement income is specifically exempt by Kentucky law [which established the retirement systems]:

(1) Kentucky teachers retirement income;

(2) Kentucky state employees and county employees retirement income;

(3) Kentucky judicial retirement income;

(4) Kentucky legislative retirement income; [and]

(5) Kentucky state supported institutions of higher education retirement income; [(effective

with income received after July 14, 1986).]
(6) Federal retirement income both civilian and military; and
(7) Local government retirement income.

[Section 3. Military and Civil Service Retirement. Federal retirement income and military service retirement income received by persons fifty (50) years of age or older may be excluded; limited to $4,000 of such retirement income. The $4,000 maximum exclusion is reduced by earned income, as defined in Section 911(d)(2) of the Internal Revenue Code. The reduction applies as follows:]

[If Earned Income from Other Sources is:	The Maximum Retirement Exclusion is:
$3,000 or less	$4,000
$3,001 to $4,000	3,000
$4,001 to $5,000	2,000
$5,001 to $6,000	1,000
Over $6,000	-0-]

C. EMMETT CALVERT, Secretary
APPROVED BY AGENCY: November 15, 1990
FILED WITH LRC: November 15, 1990 at 10 a.m.
PUBLIC HEARING: A public hearing on this regulation will be held on December 26, 1990 at 1 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 December 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: 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: Approximately 37,000 federal military and civilian retirees, and approximately 5,000 local retirees were affected by the 1990 legislation.
(a) Direct and indirect costs or savings to those affected:
1. First year: This amendment reflects the provisions of SB 4 (1990 General Assembly) which was estimated to reduce state revenue about $16,700,000 annually.
2. Continuing costs or savings: Slight increase in revenue loss due to annual increase in number of retirees.
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: Slight decrease in paperwork by taxpayers and tax practitioners. A very few taxpayers may no longer meet filing requirements with exemption of this income.
(2) Effects on the promulgating administrative body: Slight decrease in auditing and processing.
(a) Direct and indirect costs or savings:
1. First year: Nominal savings.
2. Continuing costs or savings: Same
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: Slight decrease in auditing and processing.
(3) Assessment of anticipated effect on state and local revenues: Annual revenue reduction is estimated at $16,700,000. There is no effect on local revenue.
(4) Assessment of alternative methods; reasons why alternatives were rejected: The regulation would be in conflict with law unless amended. The only alternative was repeal which was rejected because the regulation as amended provides useful guidance to taxpayers and tax practitioners.
(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: Not in conflict.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not in conflict.
(6) Any additional information or comments: This regulation is amended to reflect the exemption of federal civilian and military retirement income, and local retirement income enacted by the 1990 General Assembly in SB 4 for taxable years beginning after December 31, 1990.
TIERING: Was tiering applied? No. There is no statutory authority.

JUSTICE CABINET
Department of State Police
(Proposed Amendment)

502 KAR 45:050. Physical examination.

RELATES TO: KRS 16.040
STATUTORY AUTHORITY: KRS 16.080
NECESSITY AND FUNCTION: KRS 16.040 provides that the Commissioner of the Department of State Police may establish minimum physical requirements and conduct such tests and examinations as necessary to assure the fitness of applicants for employment as officers. This regulation outlines the physical requirements and the physical examination requirement.

Section 1. (1) Each applicant shall be required to submit to a physical examination by a qualified, licensed physician retained by the department for that purpose as a part of the selection process.
(2) The department may, if deemed necessary by the commissioner, allow the applicant to be examined by a physician of the applicant's choice at his own expense. If a physician other than one retained by the department performs the examination, he shall be required to fill out and sign the department's physical examination forms.

Section 2. The following guidelines shall to be used to determine if the applicant is in good health:
(1) Nose, throat, and speech. Chronic catarrh, sinus trouble, deviated septum, or chronically

infected or enlarged tonsils shall be deemed cause for rejection. Deformities of the mouth or lips and speech impediments, including stammering and stuttering, shall be deemed cause for rejection.

(2) Teeth. All teeth shall be in good repair. Dentures or artificial replacements are acceptable.

(3) Ears. Hearing shall be normal in both ears; an average loss of thirty (30) decibels or more in either ear at the 500, 1000, 2000 or 3000 Hertz level as shown by audiometer test shall be deemed cause for rejection.

(4) Thyroid. Goiter or improperly functioning thyroid shall be deemed cause for rejection.

(5) Chest. Respiration shall be full, easy and regular; respiration shall be clear and distinct over both lungs.

(6) Heart. The action of the heart shall be uniform, free and steady, with regular rhythm; the heart shall be free from organic diseases. Blood pressure shall be within the limits of 135/80 and 110/74.

(7) Genitalia. Hydrocele or large varicorele, deformity of testicles, tumor formation, epidymites and venereal disease shall be deemed cause for rejection.

(8) Rectum. Hemorrhoids, fissure, fistula and pilonial cyst shall be deemed cause for rejection.

(9) Trunk and extremities. Poor posture, curvature of the spine, deformed chest, bow legs, knock knees, weak ankles, flat feet, deformed toes, shortening of long bones, enlarged or poorly functioning joints, amputated fingers or toes, varicose veins, paralysis or defective gait shall be deemed cause for rejection.

(10) Organic diseases. Family history of any hereditary disease, history of dizziness, epilepsy, confinement for mental illness in any institution, stomach ulcer, kidney disease, albuminuria or glycosuria, anemia, or skin disease shall be deemed cause for rejection.

Section 3. Each applicant shall submit to and pass a physical ability test based upon standards set by the commissioner. This test shall cover four (4) areas based upon sex: height to weight ratio; bench press or push-ups in relation to body weight; flexibility; and sit-ups.

W. MICHAEL TROOP, Secretary
APPROVED BY AGENCY: November 7, 1990
FILED WITH LRC: November 7, 1990 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 1990 at 10 a.m. at Headquarters, Kentucky State Police, 919 Versailles Road, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by December 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 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. Send written notification of intent to attend the public hearing or written comments on the administrative regulation to: Sergeant John E. Thorpe, Headquarters, Kentucky State Police, 919 Versailles Road, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sgt. John E. Thorpe
(1) Type and number of entities affected: All applicants.
(a) Direct and indirect costs or savings to those affected: No fiscal impact.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: No impact
(2) Effects on the promulgating administrative body: Increase number of applicants.
(a) Direct and indirect costs or savings: No fiscal impact.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: No fiscal impact.
(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: No conflict.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. This regulation is applicable to all cadet applicants equally and will be applied uniformly.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of School Administration and Finance
(Proposed Amendment)

702 KAR 1:010. Facilities surveys and plans.

RELATES TO: KRS 156.031, 157.420, 157.622
STATUTORY AUTHORITY: KRS 156.070, 157.420
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 157.420(3) requires that the capital outlay allotment from the public school fund [portion of Foundation Program funds] be used by school districts for capital outlay projects approved by the chief state school officer [Superintendent of Public Instruction] in accordance with requirements of law and based on a survey made in accordance with regulations of the State Board for Elementary and Secondary [of] Education; and KRS 157.622 sets forth certain requirements for school facilities plans relative to participation in funding by the School Facilities Construction Commission. This

regulation provides for the development and adoption of a written plan describing construction and use of school facilities to guide school administrators in meeting the needs of the district.

Section 1. The chief state school officer [Superintendent of Public Instruction] shall conduct or cause to be conducted a facilities survey of each school district every five (5) years, except for requested and justified amendments approved by the state board, [as a part of the periodic accreditation process,] and shall deliver to the local board of education the state board-approved report which contains an assessment of existing conditions and a facilities plan which designates an organizational pattern, classification of school centers, and a priority schedule for construction and renovation needs. [This survey shall be done in conjunction with the accreditation program except for requested and justified amendments.]

Section 2. Each school district's facilities plan, and requested amendments thereto, shall be developed in accordance with the standards and hearing procedures contained in the "School Facilities Construction Criteria, August 27, 1986," which is hereby adopted and incorporated by reference. Copies of said document may [can] be inspected, copied, and obtained from the Division of Buildings and Grounds, Department of Education, 15th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, Monday - Friday, 8 a.m. - 4:30 p.m.

Section 3. The facilities plan shall remain in effect until any changes have been approved by the State Board for Elementary and Secondary [of] Education.

Section 4. The adopted facilities plan shall become the facilities plan of the local school district and shall be implemented to the extent that the financial ability of the district shall [will] permit as determined by the chief state school officer and [Superintendent of Public Instruction or] the School Facilities Construction Commission. The scope of any construction project recommended in the facilities plan shall remain in effect until any changes have been approved by the state board [not be changed unless the plan is amended].

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: November 14, 1990

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

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: Michael Luscher

(1) Type and number of entities affected:

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

1. First year: No effect.

2. Continuing costs or savings: No effect.

3. Additional factors increasing or decreasing costs (note any effects upon competition): No effect.

(b) Reporting and paperwork requirements: No effect.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: No effect.

2. Continuing costs or savings: No effect.

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: No effect.

(3) Assessment of anticipated effect on state and local revenues: No effect.

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

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

(a) Necessity of proposed regulation if in conflict: N/A

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

(6) Any additional information or comments:

TIERING: Was tiering applied? No. N/A

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of School Administration and Finance
(Proposed Amendment)

702 KAR 1:040. Procedure for suspending certificate after breach of contract.

RELATES TO: KRS 156.031, 161.780

STATUTORY AUTHORITY: KRS 156.070, 156.210 [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 KRS 161.780 provides for a one (1) year suspension of certificate by the chief state school officer for an untimely resignation of contract. This regulation [To] provides procedures by which the chief state school officer [Superintendent of Public Instruction] may suspend the certificate of a certified person because of a breach of contract for personal services.

Section 1. When a local school district desires redress as provided in KRS 161.780, the board of education shall submit [by registered mail] a written complaint to the chief state school officer [Superintendent of Public Instruction], with a copy of such complaint to the certified person affected, requesting the suspension of the certificate held by the certified person in question and setting forth the facts of the case. The complaint shall be accompanied by a true copy of the contract which was signed by the certified person in question and an extract from the minutes of the local board of education showing the action of employment of the certified person.

Section 2. Upon receipt of the request for certificate suspension, the chief state school officer [Superintendent of Public Instruction] shall notify the certified person by certified mail of the complaint and give the certified person an opportunity to request a hearing in which the certified person may show cause why the certificate shall [should] not be suspended. In the event the certified person desires such a hearing, the chief state school officer [Superintendent of Public Instruction] shall be so notified within fifteen (15) days of the date of the notification to the certified person.

Section 3. Upon the request of a certified person for a hearing upon the complaint of a local board of education, the chief state school officer [Superintendent of Public Instruction] will convene a hearing in his offices in Frankfort for the purpose of investigating all facts surrounding the written complaint. Within ten (10) days following the hearing, he shall [will] submit to both the certified person and the local board of education his findings and final action regarding the complaint.

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: November 14, 1990

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

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: Regulation applies to all current superintendents (approximately 178) and teachers (approximately 33,000). However, approximately five cases annually are reported for suspension under KRS 161.780 and this regulation.

(a) Direct and indirect costs or savings to those affected: Costs of preparing and appearing for suspension hearing and if certificate is suspended individual may not have employment as superintendent or teacher.

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: Request for suspension must be filed and relevant documents filed for the hearing.

(2) Effects on the promulgating administrative body: Investigation of suspension request. Conduct of hearings if necessary, communicating and recording actions leading to and including the final outcome.

(a) Direct and indirect costs or savings: Administrative costs associated with the above.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: Notices for hearings and subsequent action and recordkeeping.

(3) Assessment of anticipated effect on state and local revenues: No direct effect on state and local revenue.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Regulation implements KRS 161.780.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Education Professional Standards Board also has the authority to suspend certificates for causes outlined in KRS 161.120.

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. Uniform procedures necessary for handling all complaints under statute.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of School Administration and Finance
(Proposed Amendment)

702 KAR 1:070. Authority to meet report requirements.

RELATES TO: KRS 156.031, 156.230[, 156.240, 156.250]
STATUTORY AUTHORITY: KRS 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 KRS 156.230 addresses the preparation of various publications. This regulation [To] provides the chief state school officer [Superintendent of Public Instruction] with blanket authority to meet legislatively mandated report requirements.

Section 1. The State Board for Elementary and Secondary [of] Education authorizes and directs the chief state school officer [Superintendent of Public Instruction] to routinely publish all rules, regulations, standards, listings, courses of study, and other informational bulletins required by statutes, once such have, where necessary, [without prior] State Board for Elementary and Secondary [of] Education approval.

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: November 14, 1990
FILED WITH LRC: November 15, 1990 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: Bob Coakley
(1) Type and number of entities affected:
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: No change.
(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 change.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: None 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? Yes

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of School Administration and Finance
(Proposed Amendment)

702 KAR 1:115. Annual in-service training of district board members.

RELATES TO: KRS 156.031, 160.180
STATUTORY AUTHORITY: KRS 156.070, 160.180
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 KRS 160.180 provides that all local school board members shall [must] complete an established number of hours of in-service training annually, based on the number of years of experience, and that the State Board for Elementary and Secondary Education shall identify the criteria for fulfilling such requirements. This regulation establishes standards for the annual in-service training of district board members.

Section 1. The annual in-service requirements for all district school board members shall be[, for all calendar years after 1989,] as follows:
(1) Twelve (12) hours training for school board members with zero to three (3) years of experience.
(2) Eight (8) hours training for school board members with four (4) to seven (7) years of experience.
(3) Four (4) hours training for school board members with eight (8) or more years of experience.

(4)(a) Newly appointed or elected school board members who take office after June 30th of a particular year shall be entitled, upon appropriate request, to an extension of time under Section 5 of this regulation within which to acquire a maximum number of unacquired hours equal to the difference between the required number of hours and one (1) hour per month for each full month actually served during the year, and such extensions shall [may] extend no longer than through the remainder of the term being served or the next two (2) calendar years, whichever is longer.

(b) Newly appointed or elected members who take office prior to July 1, but on or after March 1, of a particular year may be granted an extension of time under Section 5 of this regulation, in appropriate cases and for an appropriate period of time not to exceed two (2) calendar years, within which to obtain the balance of any required, but unacquired in-service hours for the initial year of new service. Any such extension to acquire hours shall not exceed the difference between the required number of hours and one (1) hour per month for each full month actually served during the year.

Section 2. The topics relating to the responsibilities of board members may include but not be limited to the following subjects:

(1) The basic role and responsibility of the district board and its members;
(2) Instructional programs;
(3) District finance;
(4) Relations with superintendent and staff;
(5) School law; and
(6) Community relations.

Section 3. (1)(a) [For calendar years after 1989,] the Kentucky School Boards Association (KSBA) is recognized as the provider of eight (8) hours of district board member in-service training for board members who are required to obtain twelve (12) hours annually. This arrangement equates to the KSBA being the provider of thirty-two (32) of the forty-eight (48) hours required during the four (4) year period for new board members.

(b) New, inexperienced board members shall be exposed to basic information and skills that make them informed and effective board members. Topics that new, inexperienced board members shall acquire hours in shall be offered annually by KSBA from the following list of topics:

1. School law;
2. School finance;
3. Community relations;
4. Policy development;
5. Personnel relations;
6. Instructional programs;
7. Superintendent/board relations;
8. Goal setting/decision making;
9. Employment and evaluation of the superintendent;
10. Educational services provided for the exceptional, gifted and other special population children; and

(c) KSBA shall offer hours in at least seven (7) of the ten (10) topics listed in paragraph (b) of this subsection annually. No topic shall be made available less frequently than once in every twenty-four (24) month period.

(d) Board members in the zero to three (3) year experience period shall be allowed a maximum of four (4) hours per year, or sixteen (16) hours for the four (4) year period, as flexible hours of in-service. If board members in this category opt to get all of their hours through the KSBA, then they shall [may] have KSBA credit them for these hours. If they determine to acquire a portion or all of the sixteen (16) flexible hours through sources other than KSBA, then they shall get credit through their own school board's action at a board meeting, and a copy of that record shall be sent to KSBA so that proper credit can be given.

(2) Those district board members in the four (4) to seven (7) years experience category may acquire their hours anywhere, through any source they desire. If they obtain their hours through any source other than the KSBA, they shall [must] have local board approval and send a copy of the record (board minutes) to KSBA.

(3) Those board members in the eight (8) or more years experience category are subject to subsection (2) of this section.

(4) As the approved provider, the KSBA shall, in cooperation with the chief state school officer [Superintendent of Public Instruction], annually develop an in-service training plan for the review and approval of the State Board for Elementary and Secondary Education. In-service training for district board members shall be provided at a minimum of five (5) geographic locations, on a variety of dates.

(5) The local district board of education shall by board action certify completion of all qualifying flexible hours of in-service training in writing to KSBA, which shall combine such hours with hours of in-service training received through its approved activities. The certification to KSBA shall include a description of the time, date, location, and description of the in-service training. These records shall be submitted annually to the State Board for Elementary and Secondary Education.

Section 4. Subject to extensions granted under Section 5 of this regulation, the names of all district school board members who fail to complete the required hours of in-service training shall be transmitted by the Department of Education to the Attorney General.

Section 5. The State Board for Elementary and Secondary Education, in cases of emergency, may grant an extension of time within which a local board member shall [may] complete the required hours of in-service training. Such extensions may include true emergencies for board members serving less than a full year, based upon reasons other than merely less than a full year's service.

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: November 14, 1990
FILED WITH LRC: November 15, 1990 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: Bob Coakley
(1) Type and number of entities affected:
(a) Direct and indirect costs or savings to those affected:
1. First year: No change.
2. Continuing costs or savings: No change.
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: No change.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: No change.
2. Continuing costs or savings: No change.
3. Additional factors increasing or decreasing costs: No change.
(b) Reporting and paperwork requirements: No change.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: None 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? Yes

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of School Administration and Finance
(Proposed Amendment)

702 KAR 3:135. Bidding procedures.

RELATES TO: KRS 45A.350, 156.031, 156.070, 156.076, 424.260
STATUTORY AUTHORITY: KRS 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 45A.350 authorizes, inter alia, school districts to elect to procure pursuant to KRS 45A.345 through 45A.460 or under KRS 424.260; KRS 156.070 gives the State Board for Elementary and Secondary [of] Education the management and control of the public schools and gives it authority to prescribe such rules and regulations as it deems necessary for the efficient management, control, and operation of the schools under its jurisdiction; KRS 156.076 allows a board of education, under certain conditions, to advertise for bids and award contracts for supplies and equipment covered by price contracts secured by the Department of Finance at the request of the State Board; and KRS 424.260 requires a school district to make newspaper advertisements for bids for purchases of certain materials, supplies, equipment, or contractual services exceeding $10,000 [7,500]. This regulation standardizes the bidding procedures to be utilized by boards of education where such are necessary.

Section 1. For those school districts electing not to adopt KRS 45A.345 to 45A.460 the following requirements shall apply: Notices for bidding advertised by boards of education for purchases of materials, supplies, equipment, or contractual services, where advertising for bids is required or allowed by statute, shall describe what is to be bid for and the time and place for receiving and opening of bids.

Section 2. All bids shall be submitted in writing, typewritten or in ink, and sealed, and they shall be opened and read publicly at a legal meeting of the board of education or its authorized agent.

Section 3. No bids shall be changed after they are once submitted. This in no way prevents the acceptance or rejection of alternates which are specified as a part of the regular bid forms and specifications. However, the full intent of this section is to prohibit negotiation of contracts subsequent to time bids are submitted.

Section 4. In the event the lowest bid is not accepted, the board shall record in the minutes the reason for the rejection.

Section 5. All bids submitted and information pertaining thereto shall be filed and made available for review by interested parties.

Section 6. Notification of the awarding of the contract shall be given in writing to all bidders. This notice shall include a list of all bidders together with their bids.

Section 7. Any bid which is accepted in noncompliance with any of the above sections shall be considered null and void.

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: November 14, 1990
FILED WITH LRC: November 15, 1990 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: Bob Coakley
(1) Type and number of entities affected:
(a) Direct and indirect costs or savings to those affected:
1. First year: Minor savings in that items costing $7,500 to $9,999 will not have to be advertised and bid.
2. Continuing costs or savings: Same
3. Additional factors increasing or decreasing costs (note any effects upon competition): Costs could be increased with the absence of bidding.
(b) Reporting and paperwork requirements:
(2) Effects on the promulgating administrative body:
(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: Minor
(4) Assessment of alternative methods; reasons why alternatives were rejected: None 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? Yes

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of School Administration and Finance
(Proposed Amendment)

702 KAR 3:150. Audit exceptions and corrections.

RELATES TO: KRS 156.031, 156.070, 156.265, 160.340
STATUTORY AUTHORITY: KRS 156.070 [156.200, 156.265]
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 KRS 156.070 delegates the management and control of the common schools to the State Board for Elementary and Secondary Education; KRS 156.265 requires periodic and special audits of local school districts; and KRS 160.340 requires reports by local boards to the State Board for Elementary and Secondary Education on all phases of school service. This regulation is necessary to provide a procedure for correcting exceptions identified in the independent audit authorized by the State Committee for School District Audits.

Section 1. All local boards of education shall be required to report to the chief state school officer [Superintendent of Public Instruction], in writing, progress being made to correct exceptions appearing in school audits authorized by the State Committee for School District Audits or, in writing, justify any failure to correct exceptions appearing in any school audit authorized by the State Committee for School District Audits.

Section 2. Reports referred to in Section 1 of this regulation shall be due to the chief state school officer forty-five (45) days after receipt of the audit report by the local board or no later than December 31 following the close of the fiscal year, whichever occurs first.

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: November 14, 1990
FILED WITH LRC: November 15, 1990 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing,

you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: Bob Coakley
(1) Type and number of entities affected: 176 local school districts.
(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 in paperwork.
(2) Effects on the promulgating administrative body: No change.
(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: No change in paperwork.
(3) Assessment of anticipated effect on state and local revenues: No change.
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. Applies equally to all districts.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of School Administration and Finance
(Proposed Amendment)

702 KAR 4:005. Recreational facilities; school and community.

RELATES TO: KRS 156.031, 160.293
STATUTORY AUTHORITY: KRS 156.070, 160.290 [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 KRS 160.293 allows for the development of school property recreational facilities for school and community purposes, in conjunction with another public agency. This regulation implements the latter statute and [To] provides for school and community recreational facilities.

Section 1. Local boards of education shall be [are] authorized to cooperate with a public agency for the purpose of developing and maintaining recreational facilities on school property.

Section 2. A copy of a proposed agreement shall be submitted to the chief state school officer [Superintendent of Public Instruction] for approval.

Section 3. All plans and specifications for facilities to be erected shall be in accord with State Board for Elementary and Secondary [of] Education regulations.

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: November 14, 1990
FILED WITH LRC: November 15, 1990 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: Michael Luscher
(1) Type and number of entities affected:
(a) Direct and indirect costs or savings to those affected:
1. First year: No effect.
2. Continuing costs or savings: No effect.
3. Additional factors increasing or decreasing costs (note any effects upon competition): No effect.
(b) Reporting and paperwork requirements: No effect.
(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:
1. First year: No effect.
2. Continuing costs or savings: No effect.
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: No effect.
(3) Assessment of anticipated effect on state and local revenues: No effect.
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A
(a) Necessity of proposed regulation if in conflict: N/A
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A
(6) Any additional information or comments:
TIERING: Was tiering applied? No. N/A

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of School Administration and Finance
(Proposed Amendment)

702 KAR 4:050. Building sites; inspection, approval.

RELATES TO: KRS 156.160, 162.010, 162.060
STATUTORY AUTHORITY: KRS 156.070, 156.160
NECESSITY AND FUNCTION: KRS 156.160 requires the State Board for Elementary and Secondary Education to prescribe regulations relative to sanitary and protective construction of public school buildings; KRS 162.010 requires fee simple title to school property; and KRS 162.060 requires plan and specification approval for school construction by the chief state school officer [Superintendent of Public Instruction]. This regulation provides for the location of school buildings in accordance with the program approved by the chief state school officer [Superintendent of Public Instruction].

Section 1. Definitions. (1) In determining the location of an acceptable site, the term "in the vicinity of," as used in educational facilities plans, shall be defined as within a one (1) mile radius of a specific point or the main highway intersection (center) of a city or one (1) mile beyond any two (2) specific points referenced in the facility plan priority. No site shall be approved which exceeds the one (1) mile limit.
(2) A "major renovation" is a renovation of three (3) or more building systems in a permanent center with a total cost of more than twenty (20) percent of the current replacement cost of the building. The building may be the entire permanent center or a clearly, definable portion of the center (such as, 1973 addition, senior high wing, or physical education facility). The renovation shall have been identified in a district facility plan as a priority in order to be allowed. Building systems are defined as foundations, exterior walls, roofing, ceilings, structural, mechanical (HVAC), electrical (including lighting), plumbing, sewage and storm water disposal, doors and hardware, windows, floor coverings, and fixed equipment. The renovation shall also meet the criteria set forth in the school durability section of the school facilities construction criteria adopted by 702 KAR 1:010 and consist of work that extends the useful life of the structure and work that is not considered as routine maintenance.

Section 2. The chief state school officer [Superintendent of Public Instruction] shall cause an inspection to be made of each proposed school building site or proposed real property acquisition including site addition upon written request of the local board of education. Site approval shall be given by the chief state school officer [Superintendent of Public Instruction] prior to any purchase or commitment to purchase, except that an option-to-purchase which in no way obligates purchaser, may be executed to assure availability of site during this approval procedure. All school sites shall be in agreement with the current school facilities plan except that a local board of education may request approval of the chief state school officer [Superintendent of Public Instruction] to acquire a school site in a rapidly growing area where the existing school(s) cannot accommodate the increased student population and a new school may be proposed in a future facility plan by the Department of Education. However, no site preparation or construction shall take place prior to the time such proposed new school is a part of the facility plan. The site shall have the approval of the chief state school officer [Superintendent of Public Instruction] prior to initiation of an application for approval of a construction project.

Section 3. The minimum size of school sites shall be as follows:
(1) Elementary school: five (5) acres plus an additional acre for each 100 or fraction of 100 students of anticipated enrollment.
(2) Middle school, junior high school, and high school: ten (10) acres plus an additional acre for each 100 or fraction of 100 students of anticipated enrollment.
(3) Any deviation from subsections (1) and (2) of this regulation shall be made only after a site inspection and investigation of all other circumstances, including a certification of support by the local education agency and approval by the chief state school officer [Superintendent of Public Instruction].

Section 4. Prior to contracting for the purchase of a school site, it shall be determined by the local board of education that the following conditions can be met and assurances will be given in writing to the chief state school officer [Superintendent of Public Instruction] prior to his approval to acquire the site.
(1) A fee simple title shall be obtained in conformance with KRS 162.010. A copy of the deed and attorney's title certificate shall be furnished the chief state school officer [Superintendent of Public Instruction] for approval of the title to the site.
(2) Assurances that an adequate water supply and sewage disposal can be approved by the Department of Natural Resources and Environmental Protection and the Fire Marshal's office having jurisdiction.
(3) Assurances of adequate access to public roads or streets to accommodate anticipated school traffic.

(4) A copy of a plat of the site survey showing any easements prepared by a registered land surveyor.

(5) Certification by a registered architect, engineer or land surveyor that the site or site addition is above the 100-year flood plain. New building construction, additions or major renovation to existing buildings on land presently owned shall be approved only if it is designed in such a manner that all instructional space and the building systems are at an elevation above the 100-year flood plain.

Section 5. (1) A local board of education desiring approval of a site shall request such approval of the chief state school officer [Superintendent of Public Instruction]. If all assurances and requirements are in order and conform to the facility plan, except as noted in Section 2 of this regulation, the chief state school officer [Superintendent of Public Instruction] may approve the site. If questions exist, the chief state school officer [Superintendent of Public Instruction] shall require the requesting school district to contract with an architectural or engineering firm licensed to operate in the Commonwealth of Kentucky. The firm designated by the chief state school officer [Superintendent of Public Instruction] shall be from a list approved by the State Board for Elementary and Secondary Education contracted to perform a study of the proposed site(s). This study shall include the following: estimated costs for site development including utilities to provide required infrastructures, necessary road access including traffic impact and analysis, geotechnical report including a soils analysis and requirements for soils compaction or special footing requirements, and any hazardous conditions. Cost of the study shall be borne by the requesting school district and shall be payable upon receipt and approval of same by the chief state school officer [Superintendent of Public Instruction]. The State chief state school officer [Superintendent of Public Instruction] may waive the requirements for the study in expansions of existing school sites where proposed construction is not anticipated. The architectural or engineering firm conducting the study shall not be eligible to contract to design any construction activities for that priority project. Acquisition and site preparation costs of the local school board shall be ten (10) percent or less of the maximum budget for the project, unless authorized by the State Board for Elementary and Secondary Education. Sites already owned by the school district that meet criteria of the facility plan shall be included in site approval requests and may be subject to the required study.

(2) Once a site has been designated an approvable site, the local board of education shall obtain a written option of sufficient duration approved by the chief state school officer [Superintendent of Public Instruction] on all approvable sites under consideration until final approval of a specific site has been made in writing by the chief state school officer [Superintendent of Public Instruction].

(3) In the event that a local board of education has exhausted the time periods established by the School Facility Construction Commission and has not been able to identify a site that meets the appropriate criteria for approval, the chief state school officer [State Superintendent of Public Instruction] shall take the action necessary based upon the required site investigation to identify and approve a school site. This identification process shall include requesting the school district to contract with an architectural or engineering firm as described above for site analysis.

Section 6. A local board of education shall obtain title insurance, in an amount equal to the current appraised value of the property, from an acceptable title insurance company on property acquired for a school site in compliance with KRS 162.010. A copy of the title insurance shall be forwarded with a copy of the fee simple deed to the chief state school officer [Superintendent of Public Instruction] within sixty (60) days from the date of the deed.

Section 7. A permanent monument (four (4) by four (4) by eighteen (18) inches deep concrete with a brass pin) shall be set in the boundary line of the site at a point which will provide a starting point for initial and final plot of metes and bounds which will circumscribe the site.

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: November 14, 1990

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

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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: Michael Luscher

(1) Type and number of entities affected:

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

1. First year: No effect.
2. Continuing costs or savings: No effect.
3. Additional factors increasing or decreasing costs (note any effects upon competition): No effect.

(b) Reporting and paperwork requirements: No effect.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: No effect.
2. Continuing costs or savings: No effect.
3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: No effect.

(3) Assessment of anticipated effect on state and local revenues: No effect.

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

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

(a) Necessity of proposed regulation if in conflict: N/A

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

(6) Any additional information or comments:

TIERING: Was tiering applied? No. N/A

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of School Administration and Finance
(Proposed Amendment)

702 KAR 4:060. Construction criteria.

RELATES TO: KRS 156.160, 162.060

STATUTORY AUTHORITY: KRS 156.070, 156.160, 162.060

NECESSITY AND FUNCTION: KRS 156.160 requires the State Board <u>for Elementary and Secondary</u> [of] Education to adopt rules and regulations relating to sanitary and protective construction of public school buildings, toilets, physical equipment of school grounds, and school buildings and classrooms; and KRS 162.060 requires approval of all plans and specifications for school building construction by the <u>chief state school officer</u> [Superintendent of Public Instruction], in accordance with rules and regulations of the State Board. This regulation implements these statutory duties by prescribing various specifications to insure functional and safe operation, comfort and economical operation of the proposed educational facility.

Section 1. The design for construction of each new school building, building addition and remodeling shall be in conformance with applicable building codes and regulations and approved by authorities having jurisdiction, with special emphasis to energy code requirements. Compliance with the American National Standards Institute document A117.1 (specifications for making buildings and facilities accessible to, and usable by, physically handicapped), incorporated in the Kentucky Building Code, shall be required. The following conditions shall be provided in the design of each new school building:

(1) The minimum width for elementary school main corridors shall be eight (8) feet in the clear.

(2) The minimum width for a middle school, junior high school, or high school main corridors shall be nine (9) feet in the clear.

(3) Corridors shall terminate at an approved egress or at a stairway which leads directly to an approved egress. A corridor extension of six (6) feet will be permitted. In no case shall more than two (2) instructional areas empty into the corridor extension.

(4) The minimum width of secondary corridors shall be six (6) feet.

(5) All roofs shall be sloped, and the required slopes shall be built into the structural system of the buildings; all roofing systems shall be unconditionally warranted for a period of two (2) years by the roofing manufacturers and by the applicators from the date of final inspection and acceptance of the project.

(6) Walkways with a minimum width of twenty-two (22) inches shall be provided on the roof from the roof access point to and around each piece of major mechanical and electrical equipment.

Section 2. Each exterior door must swing out. Exterior doors from each room housing more than forty-five (45) people shall have panic hardware. Each building housing people shall be provided with no fewer than two (2) exits.

(1) Each exit door shall be either recessed or protected by a canopy, except exit doors from individual instructional areas not housing more than forty-five (45) people. A landing of not less than four (4) feet shall be provided from the door threshold to the first step.

(2) Each door and side light, when glazed, shall have either safety laminated glass, tempered glass panels, or approved equal.

(3) Each door to an instructional area shall be at least three (3) feet by six (6) feet and eight (8) inches. No other door shall be less than two (2) feet and eight (8) inches in width.

(4) Each door swinging into a corridor shall swing through 180 degrees or be recessed so it does not project into the minimum width of the corridor.

(5) In each room where there is a chance of panic by explosion such as a chemistry room, shops, etc., and in each room that houses more than forty-five (45) people, such as a library, cafeteria, etc., each exit door shall swing out.

Section 3. No fewer than two (2) stairways shall be provided in a multiple story building. The stairways shall be remote from each other.

(1) Each required stairway shall be enclosed and have doors that exit to the outside without passing through a corridor.

(2) Width of main stairways shall not be less than forty-four (44) inches between handrails. Each stairway must be provided with a handrail on each side.

(3) Risers for main stairways shall not exceed seven (7) inches in height, and treads shall not be less than eleven (11) inches in width.

(4) No door shall open immediately upon a flight of stairs or ramp. A landing at least the width of the open door plus three (3) feet shall be provided.

(5) No storage space shall be located in or under any stairwell.

(6) Each exterior stairway or ramp used as a

primary building exit shall be covered and shielded from weather.

Section 4. Each standard elementary school instructional area shall provide:
(1) A minimum of 720 square feet of floor space.
(2) A minimum width of twenty-two (22) feet.
(3) A minimum of forty-eight (48) square feet of chalkboard.
(4) A minimum of forty-eight (48) square feet of tackboard.
(5) A storage space for children's clothing.
(6) A storage space for teaching materials and records.
(7) A minimum ceiling height of eight (8) feet and eight (8) inches with mechanical ventilation or nine (9) feet and eight (8) inches with natural ventilation.

Section 5. Each standard instructional area for middle school, junior high and high school shall provide:
(1) A minimum of 625 square feet of floor space.
(2) A minimum width of twenty-two (22) feet.
(3) A minimum of forty-eight (48) square feet of chalkboard.
(4) A minimum of forty-eight (48) square feet of tackboard.
(5) A minimum ceiling height of eight (8) feet and eight (8) inches with mechanical ventilation or nine (9) feet and eight (8) inches with natural ventilation.

Section 6. A minimum window, twenty-four (24) by thirty (30) inches, shall be required in each exterior instructional area.
(1) Each window installed in an instructional areas shall have a minimum of fifty (50) percent of operable sash.
(2) Each exterior window shall be double glazed or insulated glass.
(3) Operable sections of windows shall be no higher than sixty (60) inches.
(4) No clerestory window or skylight shall be approved in an instructional area.
(5) The height of a window sash or frame shall be a minimum of thirty (30) inches above the finished floor.
(6) In an instructional area approved without mechanical ventilation, the area of operable window shall be equal to ten (10) percent of the floor area.

Section 7. Toilet rooms, shower rooms and locker rooms in a school building shall be exhausted. Exhaust registers shall be located at or in the ceiling of each area and exhausted directly to the outside. Exhaust ducts serving rooms for opposite sexes shall not be connected to a common exhaust duct unless adequate sound proofing is provided. There shall be a minimum of fifteen (15) air changes per hour of air provided for each area.

Section 8. Energy conservation requirements shall be:
(1) Each exterior wall shall have a maximum composite U-factor of two-tenths (.20) BTUH per square foot per degree Fahrenheit.
(2) A maximum composite U-factor for roofs shall be one-tenth (.10) BTUH per square foot per degree Fahrenheit.

Section 9. Standards for auxiliary spaces shall be as follows:
(1) Auditoriums, gymnasiums, and multipurpose rooms shall be located on the ground level and regardless of size shall be provided with at least two (2) exits remote from each other.
(2) Noise producing areas shall be located remote and shielded from instructional areas.
(3) A principal's office, secretaries' space and reception area shall be provided in each school plant.
(4) Records storage room shall be provided in each school. This shall be a fireproof room with a two (2) hour rating.
(5) Locker space, properly ventilated, shall be provided for each middle, junior high, and high school student.
(6) A guidance area shall be provided in each school plant.
(7) A first aid room with toilet shall be provided in every school plant.
(8) A general storage area for equipment and material storage shall be provided in every school building.
(9) A custodial equipment storage room shall be provided in every school building, with custodial closets provided in each major area.
(10) Ceiling heights of all areas shall be eight (8) feet and eight (8) inches or more relative to the area of the room. The corridor height shall be a minimum of eight (8) feet in the clear.

Section 10. Old buildings remodeled for instructional purposes shall insofar as practical, meet the requirements of new spaces that would be used for the same purposes. The plans and specifications shall be approved by the chief state school officer [Superintendent of Public Instruction] prior to the advertisement for bids for the project.

Section 11. The chief state school officer [Superintendent of Public Instruction] is authorized to waive any of the foregoing requirements upon the request of the local board for good cause, provided that it is further shown in writing that such a waiver does not constitute a violation of any other agency having jurisdiction.

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: November 14, 1990
FILED WITH LRC: November 15, 1990 at 11 a.m.
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of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: Michael Luscher
(1) Type and number of entities affected:
(a) Direct and indirect costs or savings to those affected:
1. First year: No effect.
2. Continuing costs or savings: No effect.
3. Additional factors increasing or decreasing costs (note any effects upon competition): No effect.
(b) Reporting and paperwork requirements: No effect.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: No effect.
2. Continuing costs or savings: No effect.
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: No effect.
(3) Assessment of anticipated effect on state and local revenues: No effect.
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A
(a) Necessity of proposed regulation if in conflict: N/A
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A
(6) Any additional information or comments:
TIERING: Was tiering applied? No. N/A

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of School Administration and Finance
(Proposed Amendment)

702 KAR 4:070. Mechanical, electrical, sanitary, heating and ventilation design.

RELATES TO: KRS 156.160, 162.060
STATUTORY AUTHORITY: KRS 156.070, 156.160, 162.060
NECESSITY AND FUNCTION: KRS 156.160 requires the State Board of Education to adopt rules and regulations relating to sanitary and protective construction of public school buildings, toilets, physical equipment of school grounds, and school buildings and classrooms; and KRS 162.060 requires approval of all plans and specifications for school building construction by the chief state school officer [Superintendent of Public Instruction], in accordance with rules and regulations of the State Board. This regulation implements these statutory duties by prescribing various mechanical, electrical, sanitary, heating and ventilation design specifications to provide for healthy, safe and comfortable space for learning.

Section 1. The design of the mechanical, ventilation or air conditioning system in schools shall be in accord with the recommendations and standards contained in the American Society of Heating, Refrigeration and Air Conditioning Engineers Guide, as incorporated in the Kentucky Building Code.
(1)(a) The mechanical room shall be planned to permit repair and replacement of equipment, satisfactory cleaning and care, and provide for combustion air. The mechanical equipment shall be remote from the instructional areas and shall be sufficiently soundproofed so that its operation will not disturb instruction in the classrooms. Plans for new construction and renovation, when practical, shall provide that the furnace and its related equipment shall not be directly over, under or adjacent to an instructional area.
(b) Where the roof areas are being used to house major mechanical and electrical components, a set of stairs or ships ladder shall be provided.
(2) The heating system shall be of ample capacity and so installed as to insure uniform temperature of seventy (70) degrees being maintained in all occupied rooms when the outside temperature is zero. The air conditioning system (if provided) shall be of ample capacity and so installed as to insure uniform temperature of seventy-five (75) degrees, fifty (50) percent relative humidity being maintained in all occupied rooms when outside temperature is ninety-five (95) degrees db, seventy-eight (78) degrees wb. The thermostats shall be tamper proof.
(3) Mechanical ventilation shall be provided in all new schools and additions having six (6) or more classrooms.
(4) Mechanical ventilation system in classrooms shall provide twelve (12) cfm per pupil during occupied periods. A minimum of ten (10) percent of this amount shall be outside air. Mechanical ventilation systems shall be capable of maximum utilization of outside air for ventilating and cooling purposes. Mechanical ventilation systems shall be provided with approved filters and automatic room temperature control. Air shall be introduced in such a manner as not to produce drafts.
(5) Mechanical ventilation systems capacity for multipurpose rooms and cafeterias shall be based on fifteen (15) square feet per occupant with ten (10) cfm per occupant; auditoriums and gymnasiums shall be based on the fixed seating capacity with ten (10) cfm per occupant. The ventilation system shall be capable of providing 100 percent outside air for ventilation unless the space is air conditioned.
(6) All interior instructional areas shall be air conditioned.

Section 2. All electrical work shall conform to the requirements of the National Electric Code, incorporated in the Kentucky Building Code, in effect at the time of approval of the plans or changes thereto, and installation must

be approved by authorities having jurisdiction prior to acceptance of the project.

(1) Electrical service entrance lines to school buildings shall be remotely located from student traffic lanes and areas planned for outside activities.

(2) Artificial light at a minimum of fifty (50) foot-candles at desk level shall be provided for a classroom.

(3) Artificial light at a minimum of twenty (20) foot-candles shall be provided for all stairways and corridors.

(4) Light switches in shower and toilet rooms shall be remotely located from plumbing fixtures. Windowless shower and toilet rooms shall be keyed operated switches or a minimum of one (1) continuous lighted emergency fixture.

(5) A minimum of two (2) duplex convenience outlets located remote from each other shall be provided for each classroom. For ETV power supply, one (1) of the outlets shall be located not less than forty-eight (48) inches nor more than sixty (60) inches above the floor at the end of a chalkboard remote from the entrance to the classroom.

(6) A convenience outlet shall be provided at each drinking fountain location.

(7) Each corridor shall be provided with grounded convenience outlets of such capacity and at such intervals to accommodate floor cleaning machines in corridors and classrooms.

(8) A convenience outlet shall be located near all major entrances of school buildings.

Section 3. All plumbing shall conform to the requirements of the Kentucky plumbing code, incorporated in the Kentucky Building Code, in effect at the time of approval of the plans or changes thereto, and installation must be approved by authorities having jurisdiction prior to acceptance of the project.

(1) The sewage disposal plant, where required on school property, shall be remotely located from all developed areas. Natural or installed screening shall be provided for the disposal unit.

(2) Drinking fountains shall be provided in the ratio of one (1) to seventy-five (75) students. A minimum of one (1) drinking fountain on each floor and/or each wing shall be provided. Drinking fountains shall not be placed in toilet rooms.

(3) Physical education shower and locker rooms for each sex shall be provided in all schools housing seventh grade and above.

(4) Each school building shall provide access to one (1) toilet compartment, for each sex, that will accommodate a wheelchair.

(5) When an addition to an existing building is made, additional sanitary conveniences, when counted with the existing conveniences, shall be provided to meet the requirements for the total student capacity.

(6) A hose bib and floor drain shall be provided in all toilet rooms containing more than one (1) water closet. Hose bibs shall be a minimum of eighteen (18) inches above floor and readily accessible.

(7) The following schedule shall be used as a basis for installing the fixtures in toilet rooms. Consideration will be given to multiple type lavatories.

ELEMENTARY SCHOOLS

No. of Boys	Water Closets	Urinals	Lavatories
25	1	1	1
50	2	2	2
100	2	4	3
200	3	6	5
300	4	8	6
400	5	10	8
500	6	12	9

No. of Girls	Water Closets	Lavatories
25	2	1
50	3	2
100	6	3
200	8	5
300	10	6
400	12	8
500	14	9

MIDDLE, JUNIOR HIGH AND SECONDARY SCHOOLS

No. of Boys	Water Closets	Urinals	Lavatories
25	1	1	1
50	1	2	1
100	2	4	2
200	3	6	4
300	4	8	5
400	5	10	7
500	6	12	8

No. of Girls	Water Closets	Lavatories
25	1	1
50	2	1
100	5	2
200	7	4
300	9	5
400	11	7
500	13	8

(8) School buildings of six (6) classrooms or more shall be provided with two (2) exterior freeze-proof hose bibs.

(9) A custodial service sink and shelving shall be provided, in a custodial work room, on each floor level of the building.

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

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

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: Michael Luscher
(1) Type and number of entities affected:
(a) Direct and indirect costs or savings to those affected:
1. First year: No effect.
2. Continuing costs or savings: No effect.
3. Additional factors increasing or decreasing costs (note any effects upon competition): No effect.
(b) Reporting and paperwork requirements: No effect.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: No effect.
2. Continuing costs or savings: No effect.
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: No effect.
(3) Assessment of anticipated effect on state and local revenues: No effect.
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A
(a) Necessity of proposed regulation if in conflict: N/A
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A
(6) Any additional information or comments:
TIERING: Was tiering applied? No. N/A

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of School Administration and Finance
(Proposed Amendment)

702 KAR 4:080. Temporary or supplemental units.

RELATES TO: KRS 156.031, 156.160, 162.060[, 162.160]
STATUTORY AUTHORITY: KRS 156.070, 156.160[(5)]
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 156.160 requires the State Board for Elementary and Secondary Education to promulgate administrative regulations dealing with the construction of school buildings and classrooms; and KRS 162.060 requires plans and specifications for school buildings to be approved by the chief state school officer. This regulation is necessary to provide for emergency classrooms and temporary instructional units.

Section 1. Relocatable classrooms which can be moved and assembled into instructional units on the school site must [may] be approved in writing on a year to year basis subject to the following:
(1) The minimum floor area of a relocatable classroom shall be as required in permanent school building construction except that temporary units less than twenty-two (22) feet wide may be approved for use when new construction is planned to eliminate the use of such units within a two (2) year period of time. Approval shall [would] allow these units to remain on the site for no more than twenty-four (24) months. Such approval shall be granted only after an on-site visit by a Department of Education employee to determine the adequacy of the site.
(2) The minimum heating, artificial lighting and ventilation standards shall be the same as for permanent construction.
(3) The minimum ceiling height shall be seven (7) feet and ten (10) inches at the lowest point.
(4) The minimum floor load shall be fifty (50) pounds per square foot live load.
(5) All units shall be securely anchored to withstand a wind of seventy-five (75) miles per hour.
(6) Steps with landings and handrails shall be provided for all exit doors. A ramp serving at least one (1) entry shall be provided.
(7) Each classroom shall be provided with two (2) doors, remote from each other.
(8) Chalkboard and tackboard, a minimum of forty-eight (48) square feet of each, shall be provided.

Section 2. The plans and specifications for approval shall provide the following:
(1) A plot plan of the existing school which shows all boundaries, buildings, walks, drives, and other developments and the proposed location of the unit. When applicable, electrical service lines to the units and water and sewage lines [where applicable] shall be shown on the plot plan.
(2) Specifications that each bidder shall provide [will furnish a] units that [will] meet all of the regulations of the State Board for Elementary and Secondary [of] Education, and applicable regulations of the Department of Housing, Buildings and Construction. The specifications shall also require each bidder to submit with the bid, a copy of the plans and specifications bearing the seal of a Kentucky registered architect, of the unit being bid. The specifications shall require the successful bidder to submit a copy of the plans, bearing the seal of a Kentucky registered architect or engineer, to the Department of Housing,

Buildings and Construction and Department of Education.

Section 3. (1) The successful contractor shall furnish the local board of education certification of completion on forms provided by the State Board for Elementary and Secondary [of] Education. The local board of education shall approve the form and forward to the chief state school officer [Superintendent of Public Instruction] a completed copy or a letter stating why the board does not agree that the construction is substantially completed. The chief state school officer [Superintendent of Public Instruction] shall make a final inspection of the project following receipt of the required State Board for Elementary and Secondary [of] Education form.

(2) Following the final inspection, a written statement of completion or a list of items to be completed, shall [will] be given to the local board of education with a copy to the contractor. Written authorization for full payment of the contract shall [will] be given when the project is completed in accord with the plans and specifications.

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: November 14, 1990

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

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: Michael Luscher

(1) Type and number of entities affected:

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

1. First year: No effect.

2. Continuing costs or savings: No effect.

3. Additional factors increasing or decreasing costs (note any effects upon competition): No effect.

(b) Reporting and paperwork requirements: No effect.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: No effect.

2. Continuing costs or savings: No effect.

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: No effect.

(3) Assessment of anticipated effect on state and local revenues: No effect.

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

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

(a) Necessity of proposed regulation if in conflict: N/A

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

(6) Any additional information or comments:

TIERING: Was tiering applied? No. N/A

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of School Administration and Finance
(Proposed Amendment)

702 KAR 4:090. Property disposal.

RELATES TO: KRS 156.031, 156.160[, 160.476, 162.010]

STATUTORY AUTHORITY: KRS [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 KRS 156.160 requires the State Board for Elementary and Secondary Education to promulgate administrative regulations dealing with the disposal of real and personal property owned by local boards of education. This regulation is necessary to provide for property disposal, leases and easements in accordance with an approved educational program.

Section 1. School property proposed for disposal shall be surplus to the need for the educational program of the district as determined [approved] by the effective facility plan [latest facilities survey or by an amendment thereto]. Request for approval shall be submitted in writing to the chief state school officer [Superintendent of Public Instruction]. Disposal may be implemented upon approval.

Section 2. Prior to the execution of the [Any] proposed lease agreement for, or easement upon, public school property shall be submitted to the local board of education for its consideration and written recommendation forwarded to the chief state school officer [Superintendent of Public Instruction] for his review, [and] approval and assurance that disposal will [as]

not affect[ing] the integrity or usefulness of [necessary school] property crucial to the educational needs of the district [prior to execution].

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: November 14, 1990
FILED WITH LRC: November 15, 1990 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: Michael Luscher
(1) Type and number of entities affected:
(a) Direct and indirect costs or savings to those affected:
1. First year: No effect.
2. Continuing costs or savings: No effect.
3. Additional factors increasing or decreasing costs (note any effects upon competition): No effect.
(b) Reporting and paperwork requirements: No effect.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: No effect.
2. Continuing costs or savings: No effect.
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: No effect.
(3) Assessment of anticipated effect on state and local revenues: No effect.
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A
(a) Necessity of proposed regulation if in conflict: N/A
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A
(6) Any additional information or comments:
TIERING: Was tiering applied? No. N/A

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of School Administration and Finance
(Proposed Amendment)

702 KAR 4:100. Emergency school loan [construction] fund; repayments.

RELATES TO: KRS 156.031, 160.599[(4)]
STATUTORY AUTHORITY: KRS 156.070, 160.599 [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 KRS 160.599 provides for an emergency loan fund for local school districts experiencing a loss of physical facilities due to fire or natural disaster or a failure to timely receive local tax revenues. This regulation is necessary to establish procedures for the handling and repayments of loans made from the Emergency Revolving School Loan Fund Account.

Section 1. The total amount of the loan shall [will] be forwarded to the district upon approval of plans and specifications, and a proposed contract has been approved by the Division of Buildings and Grounds.

Section 2. The entire amount of the loan shall be deposited directly into a separate account designated as the "Emergency School Loan [Construction] Fund."

Section 3. The fund shall be kept in a depository selected by the board of education. The money shall be invested in direct obligations of the United States until such time as cash funds shall be needed.

Section 4. All expenditures from this fund shall be made solely for the purposes approved by the Director of the Division of Buildings and Grounds except that a district may qualify for a loss if the sheriff has failed to collect or disburse tax revenue in a fiscal year.

Section 5. The State Board for Elementary and Secondary [of] Education shall cause to be made annually an audit of this fund by a certified public accountant or by an accountant approved by the State Department of Education.

Section 6. One-tenth (1/10) of the loan made for construction purposes shall be payable to the "State Emergency Revolving School Loan Fund Account" on each anniversary date of the loan for the next ten (10) consecutive years. A loan made because of delinquent tax revenues shall be repaid when tax revenues are received and no later than three (3) years from the date of the loan. This payment shall be forwarded to the Director, Division of School District Finance

[Management and Audit], State Department of Education.

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: November 14, 1990
FILED WITH LRC: November 15, 1990 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: Bob Coakley/Mike Luscher
(1) Type and number of entities affected:
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements:
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: Minimal
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues:
(4) Assessment of alternative methods; reasons why alternatives were rejected: None 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? Yes

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of School Administration and Finance
(Proposed Amendment)

702 KAR 4:110. Program space; space allocation.

RELATES TO: KRS 156.031, 156.160, 157.620, 162.060
STATUTORY AUTHORITY: KRS 156.070, 156.160, 162.060
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 156.160 requires the State Board for Elementary and Secondary Education to prescribe regulations relative to construction of public school buildings and the preparation of budgets by local school districts; KRS 157.620 requires the State Board for Elementary and Secondary Education to develop and certify to the School Facilities Construction Commission financial need as prescribed by local boards' facility plans; and KRS 162.060 requires plans and specifications approval for school construction by the chief state school officer [Superintendent of Public Instruction]. This regulation provides a means of determining program space and total space allocation for public schools as a basis for financial need and construction approval by the chief state school officer [Superintendent of Public Instruction].

Section 1. For construction needs approved following the effective date of this regulation, the following shall apply:
(1) In determining the maximum financial budget for proposed public school construction and assessing approval of any projects, the chief state school officer [Superintendent of Public Instruction] shall first compute the sum of all individual programmed spaces of an addition or new facility compared to the total square footage, such ratio to be referred to as the building efficiency. The remainder shall be referred to as the unassigned space percentage, with unassigned spaces being all circulation areas including lobbies, vestibules, corridors, passages, and stairways; mechanical rooms; custodial rooms; public toilets; maintenance and operation areas; general storage rooms (not listed as auxiliary space within a general assignable category); and exterior bearing walls, interior walls or partitions, and other areas occupied by the building's structural elements.
(2) The square foot allocation for priority projects shall be calculated using [with] the following building efficiency and unassigned space percentages:

	Building Efficiency %	Unassigned Space %
Elementaries and Support Buildings	74	26
Middle and Junior High	71	29
High School	68	32

SQUARE FOOT ALLOCATION (SFA) EQUATION FOR NEW CONSTRUCTION

$$SFA = \frac{\text{Sum of Programmed Spaces}}{\text{Building Efficiency}} \times 100$$

(Example: Middle School Addition of 10 Classrooms and 1 Art Room

$$SFA = \frac{10\ (625) + 1200}{71} \times 100$$

SFA = 10,493 Square Feet)

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: November 14, 1990
FILED WITH LRC: November 15, 1990 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: Michael Luscher
(1) Type and number of entities affected:
(a) Direct and indirect costs or savings to those affected:
1. First year: No effect.
2. Continuing costs or savings: No effect.
3. Additional factors increasing or decreasing costs (note any effects upon competition): No effect.
(b) Reporting and paperwork requirements: No effect.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: No effect.
2. Continuing costs or savings: No effect.
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: No effect.
(3) Assessment of anticipated effect on state and local revenues: No effect.
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A
(a) Necessity of proposed regulation if in conflict: N/A
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A
(6) Any additional information or comments:
TIERING: Was tiering applied? No. N/A

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of School Administration and Finance
(Proposed Amendment)

702 KAR 4:120. Square foot costs and maximum budget.

RELATES TO: KRS 156.031, 156.160, 157.620, 162.060
STATUTORY AUTHORITY: KRS 156.070, 156.160, 162.060
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 156.160 requires the State Board for Elementary and Secondary Education to prescribe regulations relative to construction of public school buildings and the preparation of budgets by local school districts; KRS 157.620 requires the State Board for Elementary and Secondary Education to develop and certify to the School Facilities Construction Commission financial need as prescribed by local boards' facility plans; and KRS 162.060 requires plans and specifications approval for school construction by the chief state school officer [Superintendent of Public Instruction]. This regulation provides the basis for financial need used in conjunction with the space allocation.

Section 1. For any construction needs included in the local education agency's approved facility plan [following the effective date of this regulation], the following shall apply: in calculating the maximum budget for individual projects and total financial need, sixty-five (65) dollars per square foot, including fees and contingencies, shall be allowed for new construction approved for a square foot allocation in accordance with 702 KAR 4:110:

MAXIMUM BUDGET (MB) EQUATION
FOR NEW CONSTRUCTION

MB = SFA X $65

(Example: MB = 10,493 X $65
MB = $682,045)

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: November 14, 1990
FILED WITH LRC: November 15, 1990 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: Michael Luscher
(1) Type and number of entities affected:
(a) Direct and indirect costs or savings to those affected:
1. First year: No effect.
2. Continuing costs or savings: No effect.
3. Additional factors increasing or decreasing costs (note any effects upon competition): No effect.
(b) Reporting and paperwork requirements: No effect.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: No effect.
2. Continuing costs or savings: No effect.
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: No effect.
(3) Assessment of anticipated effect on state and local revenues: No effect.
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A
(a) Necessity of proposed regulation if in conflict: N/A
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A
(6) Any additional information or comments:
TIERING: Was tiering applied? No. N/A

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of School Administration and Finance
(Proposed Amendment)

702 KAR 4:130. Increase in financial budget.

RELATES TO: KRS 156.031, 156.160, 157.620, 162.060
STATUTORY AUTHORITY: KRS 156.070, 156.160, 162.060
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 156.160 requires the State Board for Elementary and Secondary Education to prescribe regulations relative to construction of public school buildings and the preparation of budgets by local school districts; KRS 157.620 requires the State Board for Elementary and Secondary Education to develop and certify to the School Facilities Construction Commission financial need as prescribed by local boards' facility plans; and KRS 162.060 requires plans and specifications approval for school construction by the chief state school officer [Superintendent of Public Instruction]. This regulation provides for an increase of the maximum budget due to circumstances beyond the districts' control and allows funds currently available to the district from the School Facilities Construction Commission to be utilized to the extent funds are available on a revised maximum budget per priority project basis.

Section 1. For construction needs approved following the effective date of this regulation, the following shall apply:
(1) The maximum financial budget to be expended on any project designated by priority in the district's most recent facility plan shall be established by the Department of Education, using the established space and financial allotments, and shall be rounded to the nearest $5,000. Included in such a budget are the following items: construction funds to meet the approved program, required fixed equipment, professional fees (including design, construction, administrative and supervisory, and financial), a five (5) percent contingency, and other, normal costs of selling revenue bonds. Site acquisition, site development, and utilities, and movable equipment as approved by the department are included to the extent of the maximum budget plus investment income and any additional local funds committed by the board.
(2) Once the maximum financial budget has been exceeded, it is the sole responsibility of the local district to fund any amounts above the budget. If, however, a district designs the

program spaces to the program space allotment and due to circumstances beyond the district's control because of excessive site acquisition or site development and utilities the total cost of those acceptable included items exceed the financial budget, it may apply to the chief state school officer [Superintendent of Public Instruction] for an increase of the project's maximum budget up to ten (10) percent, based upon actual costs of site acquisition and site development and utilities. Any request from a district which exceeds ten (10) percent additional maximum budget shall require approval by the State Board for Elementary and Secondary Education. Site development shall include, but not necessarily be limited to, the preparation of the site for the facility and its required appurtenances including utilities (water, power, fuel, and sewage disposal), road access, earth removal, or installation and compaction or special footing requirements. In the event usable acreage is being provided, the district may request additional monies only to the extent of providing no more than a maximum size site for the type of school listed in the facility plan priority.

(3) The approval of an increase in the maximum budget shall allow monies from the current offer of assistance from the School Facilities Construction Commission to be applied to the extent of available funding. For a district to be eligible to apply for these additional budget monies, no spaces outside the programmed spaces or larger than designated shall be constructed. It is still the responsibility of the local district and its design professional to construct the project within the original financial budget, however, if it appears that the project shall [will] exceed that scope, the Department of Education shall provide expertise to make changes in the plans and specifications to reduce the projected cost. An approved increase in the maximum budget allows monies for the current offer of assistance to be utilized to the extent available.

(4) A local board of education shall request an increase of any prior approved priority's maximum budget under the provisions of the altered square foot cost allocation, redefinition of unassigned space, and high cost of site acquisition, site development and utilities where the priority has not been completed to meet the space criteria or has not been contracted for construction, regardless of its original funding date, where current funding is available. Any increase of the maximum budget of ten (10) percent or less shall be submitted to [may be approved by] the chief state school officer for approval [Superintendent of Public Instruction], and requests that exceed ten (10) percent shall be submitted to [may be approved by] the State Board for Elementary and Secondary Education for approval. Alterations to the maximum budgets shall be forwarded to the School Facilities Construction Commission. [No additional funds to local boards of education from the commission shall be made through the end of 1990 biennium budget offer of assistance.]

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: November 14, 1990

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

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: Michael Luscher

(1) Type and number of entities affected:

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

1. First year: No effect.

2. Continuing costs or savings: No effect.

3. Additional factors increasing or decreasing costs (note any effects upon competition): No effect.

(b) Reporting and paperwork requirements: No effect.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: No effect.

2. Continuing costs or savings: No effect.

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: No effect.

(3) Assessment of anticipated effect on state and local revenues: No effect.

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

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

(a) Necessity of proposed regulation if in conflict: N/A

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

(6) Any additional information or comments:

TIERING: Was tiering applied? No. N/A

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of School Administration and Finance
(Proposed Amendment)

702 KAR 5:010. Responsibilities of division.

RELATES TO: KRS 156.031, 156.160, 157.370, 189.540
STATUTORY AUTHORITY: KRS 156.070, 156.160, 157.370
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 156.160 and 189.540 require the State Board for Elementary and Secondary Education to promulgate regulations relating to the physical welfare and safety of public school children, the transportation of such children to and from school, and the operation of school buses; and KRS 157.370 references the method of calculating transportation costs for the state public school funding program. This regulation establishes guidelines and procedures whereby the Department of Education, through its Division of Pupil Transportation answerable to the chief state school officer, may offer direct assistance to the school districts in these areas: service to the pupils, school bus safety, and economy of operation.

Section 1. The Division of Pupil Transportation shall make the calculations for pupil transportation allotment purposes for the Fund to Support Education Excellence in Kentucky which are necessary to determine the calculated pupil transportation program cost for each district which provides transportation for its pupils.

Section 2. The Division of Pupil Transportation shall be responsible for the development of a standardized school bus driver training curriculum, meeting the standards of 702 KAR 5:080, Sections 8 and [,] 9[, and 10], and shall keep the curriculum up-to-date by revision when experience indicates updating is necessary. The division shall be responsible for training and certifying instructors of the training curriculum.

Section 3. No person shall be certified to teach the school bus driver training curriculum until he or she has satisfactorily completed a minimum of twenty-five (25) hours classroom and driving instruction, conducted by the Division of Pupil Transportation and relevant to the approved driver training curriculum, and has been issued an instructor's certificate by the chief state school officer. Instructors shall be required to renew their certificates annually by completing six (6) appropriate hours of update training conducted by the division.

Section 4. The Division of Pupil Transportation shall have the authority to make safety inspections of any and all school buses and special type vehicles either owned by the board or contracted to the board being used to transport pupils to and from school, held in reserve as substitutes for this purpose, or proposed for this purpose. If any of these school buses or special type vehicles are found to be in an unsafe condition, the Division of Pupil Transportation shall have the authority to prohibit further use for the transportation of pupils until the conditions causing them to be unsafe shall have been corrected.

Section 5. The Division of Pupil Transportation shall have the authority to prohibit the use of school buses or special type vehicles used for the transportation of pupils, which have been purchased by boards of education or school bus contractors that were originally manufactured to the specifications of a state other than Kentucky. These vehicles shall remain out of service until approved by the Division of Pupil Transportation as meeting the minimum safety standards for Kentucky school buses of the same model year.

Section 6. The Division of Pupil Transportation shall have the authority to make a district pupil transportation system survey in any school district providing transportation for its pupils, or that is planning to provide transportation for its pupils.

Section 7. The Division of Pupil Transportation shall have the authority to require the superintendent of a school district to prepare or cause to be prepared: pupil transportation maps, bus route descriptions, and reports necessary for calculating the district's entitlement under the Fund to Support Education Excellence in Kentucky and the Division of Pupil Transportation in making a pupil transportation system survey for the district.

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: November 14, 1990
FILED WITH LRC: November 15, 1990 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: Wendell Bruce
(1) Type and number of entities affected: None
(a) Direct and indirect costs or savings to those affected:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body: None
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: this revision is necessary to make the reference to 702 KAR 5:080 read Sections 8 and 9.
TIERING: Was tiering applied? No. This regulation applies equally to all school district.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of School Administration and Finance
(Proposed Amendment)

702 KAR 5:030. Superintendents' responsibilities.

RELATES TO: KRS 156.031, 156.160, 189.540
STATUTORY AUTHORITY: KRS 156.070, 156.160, 157.320
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 KRS 156.160 and 189.540 require the State Board for Elementary and Secondary Education to promulgate regulations relating to the safety of public school children, the transportation of such children to and from school, and the operation of school buses. This regulation provides the district superintendent with the regulations necessary to assist him in administering the district's pupil transportation programs and to provide the maximum consistency throughout the state.

Section 1. Each school district superintendent shall be responsible for the general supervision of the district's pupil transportation program. The superintendent may designate another employee or other employees of the board to assist in carrying out this responsibility. For the purpose of these regulations, the word "superintendent" shall mean the superintendent or his designate.

Section 2. The superintendent shall require that a safety inspection be made on each school bus owned and operated by the board or contracted to the board at least once each month that the district's schools are in session. This inspection shall be made by a competent person. If, upon inspection, a school bus is found to be in unsafe operating condition, the superintendent shall withhold the bus from operation until the required repairs are made. The superintendent shall be responsible for keeping the records of the bus safety inspections on file, and shall be responsible for certifying to the Division of Pupil Transportation at least once each month that each school bus used during that month has received the proper safety inspection.

Section 3. The superintendent shall be responsible for preparing the school bus route maps, school bus inventories, and other reports required by the Division of Pupil Transportation for the purpose of making the pupil transportation cost calculation for the Fund to Support Education Excellence in Kentucky.

Section 4. The superintendent shall be responsible for making reports on a monthly basis to the Division of Pupil Transportation on all school bus accidents that happened to the district's buses during the month.

Section 5. The superintendent shall be responsible for providing the necessary and required school bus driver training before a school bus driver shall enter into the duties of transporting pupils to and from school or events related to such schools. This training shall at least include the school bus driver course prescribed by the State Board for Elementary and Secondary Education, in accordance with 702 KAR 5:080, Sections 8 and [,] 9[, and 10] and shall be conducted by a certified instructor. Evidence that the driver has received this training shall be submitted to the Division of Pupil Transportation and a copy shall be kept on file in the office of the superintendent.

Section 6. The superintendent shall be responsible for providing the required in-service school bus driver training which each school bus driver shall complete annually for certification renewal, in accordance with 702 KAR 5:080, Section 9 [10]. The in-service training shall include at least eight (8) hours of required instruction conducted by a certified instructor. Evidence that each driver has received this training shall be submitted to the Division of Pupil Transportation and a copy shall be kept on file in the office of the superintendent.

Section 7. (1) The superintendent shall, prior to the beginning of each school year, perform a criminal records and driving history check on all new and previously employed school bus drivers. Employment for the school year shall be contingent upon such a check and appropriate

action on such by the local superintendent.

(2) The [Within ten (10) days of any such occurrence, a] school bus driver shall immediately report to the local superintendent or his designee any revocation of his driver's license or conviction for DUI or reckless driving.

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: November 14, 1990

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

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: Wendell Bruce

(1) Type and number of entities affected: None

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

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

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

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

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: This revision is necessary to make the reference to 702 KAR 5:080 read Sections 8 and 9.

TIERING: Was tiering applied? No. This regulation applies equally to all school districts.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of School Administration and Finance
(Proposed Amendment)

702 KAR 5:040. District board's responsibilities.

RELATES TO: KRS 156.031, 156.160, 189.540

STATUTORY AUTHORITY: KRS 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 KRS 156.010 and 189.540 require the State Board for Elementary and Secondary Education to promulgate regulations relating to the safety of public school children, the transportation of such children to and from school, and the operation of school buses. This regulation assists district boards of education in meeting their necessary obligations in the operation of the district's school buses.

Section 1. The district board shall be responsible for the safe operation of the district's pupil transportation system.

Section 2. The board shall provide the driver of each board-owned school bus and special type vehicle with a written contract each school year in which the terms of employment are clearly defined.

Section 3. The board shall provide the owner of any school bus or special type vehicle that is contracted to the board for the transportation of the district's pupils to and from school with a written contract each school year in which the responsibilities of the contractor are clearly defined.

Section 4. The board shall require the owner of any school bus or special type vehicle contracted to the board to provide a performance bond each school year in the amount that the board deems necessary.

Section 5. The board shall make provision for the mechanical maintenance of the district's school buses and shall maintain these buses in safe operating condition.

Section 6. In route planning and purchasing or contracting for school buses, the board shall work toward providing the pupil transportation vehicles necessary to keep the number of pupils required to be transported by any one (1) vehicle at one (1) time within reasonable proximity of the seating capability of the

vehicle, and within the limits established by Sections 13 through 16 of 702 KAR 5:080.

Section 7. The board shall be responsible for the removal of all the district identification from all places where it appears on a board-owned school bus before title to the school bus is transferred to another party. All contracts issued by the board to a school bus contractor shall contain a clause requiring the school bus contractor to remove all district identification lettering from the school bus when it is no longer under contract to the board.

Section 8. Before the board transfers title to a school bus to another party other than a Kentucky school district, the board shall be responsible for making the stop signal arm and the red flashing warning lights inoperable by disconnection or removal.

Section 9. The board shall be responsible for the development of a plan whereby all pupils that ride the school buses shall receive instruction in school bus pupil safety each school year. The board shall provide for all students at least four (4) emergency evacuation drills on a school bus each year. Two (2) evacuations shall be conducted each semester with the first evacuation each semester being conducted within the first week following the beginning of the semester. All evacuations shall be conducted with guidelines approved by the Kentucky Department of Education, Division of Pupil Transportation. Documentation of emergency evacuation performance shall be kept on file in the local superintendent's office. Emergency evacuation drills shall be supplemented by educational films, safety demonstrations or related information as developed by the Kentucky Department of Education.

Section 10. Any radio, tape, or communication system that the board shall permit to be installed on the school bus shall be under the control of the bus driver. The board shall not permit a radio, tape, or communication system to be operated on the school bus that is not under the direct control of the bus driver.

Section 11. The board shall designate the physician or physicians that shall perform the physical examination required for all school bus drivers. The board shall keep a current physical examination record or physical fitness certificate <u>on file in the board secretary's office</u> for each school bus driver [on file].

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: November 14, 1990
FILED WITH LRC: November 15, 1990 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: Wendell Bruce
(1) Type and number of entities affected: None
(a) Direct and indirect costs or savings to those affected:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body: None
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: This regulation has been reviewed and only editorial changes are recommended.
TIERING: Was tiering applied? No. This regulation applies equally to all school districts.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of School Administration and Finance
(Proposed Amendment)

702 KAR 5:050. Supervision and discipline of pupils.

RELATES TO: KRS <u>156.031,</u> 156.160, 189.540
STATUTORY AUTHORITY: KRS 156.070, 156.160
NECESSITY AND FUNCTION: <u>KRS 156.031 requires that regulations relating to statutes amended by</u>

the 1990 Kentucky Education Reform Act be reviewed, amended if necessary and resubmitted to the Legislative Research Commission prior to December 30, 1990; and KRS 156.160 and 189.540 require the State Board for Elementary and Secondary Education to promulgate regulations relating to the safety of public school children, the transportation of such children to and from school, and the operation of school buses. This regulation provides requirements for [To provide guidelines to assist] boards of education in insuring [providing] the supervision and discipline essential to the safe operation of the school buses.

Section 1. The principal or the person or persons designated by the board of education shall be responsible for the organization and operation of a system of adequate supervision of the pupils as they unload from the school buses and load onto the school buses at the school.

Section 2. The principal or the person or persons designated by the board of education shall be responsible for the discipline of the pupils who [that] ride [the] school buses. The principal [to and from school and] shall assist the school bus driver with discipline problems which [that] arise on the bus when the school bus driver shall have made the proper report on the discipline problem either in person or in writing.

Section 3. A pupil who creates a serious safety or discipline problem or persists in creating discipline problems on the school bus shall be reported to the principal or person designated by the board to handle bus discipline problems. The principal or person designated by the board shall have the authority to forbid the pupil bus riding privileges until the problem is resolved. A student whose bus riding privileges have been suspended shall not be allowed on the bus again until the driver receives written permission by the principal or his designee. [Should a pupil create a serious safety or discipline problem on the school bus or persist in creating discipline problems on the school bus after having been reported by the school bus driver to the principal or to the person or persons designated by the board of education and warned or disciplined, the principal or the person or persons designated by the board of education shall forbid the pupil to ride the school bus until written permission for the pupil to again ride the school bus has been given to the school bus driver by the person or persons designated by the board of education to grant such permission.]

Section 4. School bus drivers shall be provided with a list prepared by the principal or his designee of the names and addresses of the students who are assigned to ride on their buses each trip. A system of updating the list shall be developed to keep it current. A list of the students assigned to ride a bus on an extracurricular trip shall be provided for the school bus driver. [The principal or the person or persons designated by the board of education may cause a list to be made of the names and addresses of the pupils in each of the district's schools that are served by school buses that are assigned to ride each particular school bus on each particular trip, and may keep these lists current. A copy of the list of pupils that are assigned to ride a particular school bus on a particular trip may be provided for the school bus driver to keep in a secure place on the school bus to use for pupil identification purposes and for use in case of an emergency or disaster.]

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: November 14, 1990

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

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: Wendell Bruce

(1) Type and number of entities affected: None

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

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

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

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

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

(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: Only editorial changes are recommended.
TIERING: Was tiering applied? No. This regulation applies equally to all school districts.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of School Administration and Finance
(Proposed Amendment)

702 KAR 6:010. Local responsibilities.

RELATES TO: KRS 156.010, 156.031, 156.035, 42 U.S.C. §1751 to §1769b, 42 U.S.C. §1771 to §1789
STATUTORY AUTHORITY: KRS 156.031, 156.035, 156.070
NECESSITY AND FUNCTION: This regulation is promulgated under the authority of the State Board for Elementary and Secondary Education's mandate to implement federal education assistance programs and is needed to carry out the Congressional intent of the National School Lunch Act of 1946, the Child Nutrition Act of 1966 and all amendments thereto. Also, it holds a local agency accountable for its program. Reconsideration and refiling of this regulation is required pursuant to KRS 156.031.

Section 1. The operation of all school food service programs in the public, private, parochial and state schools shall be the responsibility of the local board of education or the governing body of the schools.

Section 2. Rules and regulations shall be developed by local governing bodies regarding the employment, dismissal, promotion, work assignments, emergency leave, sick leave, vacation leave, retirement, insurance, workmen's compensation and salary schedules providing at least minimum wage in accordance with minimum wage laws.

Section 3. Rules and regulations shall be developed by local governing bodies regarding purchasing food and equipment, cost of meals, storage and sanitation, and financial accounting and safeguarding of funds. These rules shall be in compliance with applicable local, state or federal laws, and regulations.

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: November 14, 1990
FILED WITH LRC: November 15, 1990 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: Paul McElwain
(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: None
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. All districts affected equally.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of School Administration and Finance
(Proposed Amendment)

702 KAR 6:020. District director.

RELATES TO: KRS 156.031, 160.290 [156.100], 160.380, 161.020[, 161.140]
STATUTORY AUTHORITY: KRS 156.035, 156.070, 156.160
NECESSITY AND FUNCTION: This regulation is needed to carry out the Congressional intent of

the National School Lunch Act of 1946, the Child Nutrition Act of 1966 and all amendments thereto. Reconsideration and refiling of this regulation is required pursuant to KRS 156.031.

Section 1. [Effective July 1, 1975] All local school districts shall determine the need for[, and if the need exists, employ] either a full-time or part-time school food service director. If a local board has determined such a need, then the position shall be staffed by the local superintendent.

Section 2. A local school food service director shall be responsible to the local superintendent of schools [and the local board of education] and shall work with principals, teachers, managers and other school food service personnel to plan, develop, administer, and supervise the school food services program on a district-wide basis.

Section 3. No person shall be eligible to hold the position of a district school food service director, or receive salary for services rendered in such position, unless he or she meets any [the] certification requirements established by the State Board for Elementary and Secondary [of] Education for this position.

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: November 14, 1990

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

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: Paul McElwain

(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: None

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

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

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

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. All districts affected equally.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of School Administration and Finance
(Proposed Amendment)

702 KAR 6:030. Principal's responsibilities.

RELATES TO: KRS 156.010, 156.031, 156.035, 42 U.S.C. §1751 to §1769b, 42 U.S.C. § 1771 to §1789

STATUTORY AUTHORITY: KRS 156.031, 156.035, 156.070

NECESSITY AND FUNCTION: This regulation is promulgated under the authority of the State Board for Elementary and Secondary Education's mandate to implement federal education assistance programs and and is needed to carry out the Congressional intent of the National School Lunch Act of 1946, the Child Nutrition Act of 1966 and all amendments thereto. It defines the role of the local school principal to the school food service program(s) within his jurisdiction. Reconsideration and refiling of this regulation is required pursuant to KRS 156.031.

Section 1. School districts not employing a school food service director shall require the local school principal, within his jurisdiction, to be responsible for the school food service programs(s) in the following areas:

(1) School food service personnel;

(2) School food service records and reports;

(3) School food service menu planning;

(4) Adequate scheduling of school food service programs;

(5) Food purchasing;

(6) Food storage;

(7) Free and reduced price lunch and breakfast applications;

(8) Food preparation;

(9) Food service facilities and equipment;

(10) Food serving;
(11) Food service sanitation;
(12) Accountability of school food service funds; and
(13) Innovated ideas to improve school food service participation.

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: November 14, 1990
FILED WITH LRC: November 15, 1990 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: Paul McElwain
(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: None
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. All districts affected equally.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of School Administration and Finance
(Proposed Amendment)

702 KAR 6:040. Personnel; policies and procedures.

RELATES TO: KRS 156.010, 156.031, 156.035, 42 U.S.C. §1751 to §1769b, 42 U.S.C. § 1771 to §1789
STATUTORY AUTHORITY: KRS 156.031, 156.035, 156.070
NECESSITY AND FUNCTION: This regulation is promulgated under the authority of the State Board for Elementary and Secondary Education's mandate to implement federal education assistance programs and is needed to carry out the Congressional intent of the National School Lunch Act of 1946, the Child Nutrition Act of 1966 and all amendments thereto. This regulation describes the policies and procedures to be followed by a school district in employing local school food service personnel. Reconsideration and refiling of this regulation is required pursuant to KRS 156.031.

Section 1. Each school district shall employ school food service personnel in a procedure consistent with KRS 160.380 and 702 KAR 6:045.

Section 2. Each school district, through its superintendent, shall notify in writing each full-time school lunch employee of the hours, terms and conditions of employment, lines of authority, and general responsibilities. Each district [and] shall include an appropriate service termination policy for both the district and employee.

Section 3. Each school district shall establish and adopt a uniform pay scale for all full-time school food service employees.

Section 4. Each school district shall provide workmen's compensation and fulfill minimum hourly wage rates for school food service personnel.

Section 5. The superintendent shall cause school food service personnel to avail themselves of training programs when such are offered.

Section 6. Social security participation for school food service personnel shall be in keeping with social security policies for other nonprofessional personnel.

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: November 14, 1990
FILED WITH LRC: November 15, 1990 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: Paul McElwain
(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: None
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. All districts affected equally.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of School Administration and Finance
(Proposed Amendment)

702 KAR 6:045. Personnel; food service employee qualifications.

RELATES TO: KRS 156.031, 156.160
STATUTORY AUTHORITY: KRS [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 156.160 requires the State Board for Elementary and Secondary Education to adopt regulations deemed necessary or advisable for the protection of the physical welfare and safety of public school children. This regulation prescribes necessary qualifications and training of beginning school food service employees.

Section 1. No person shall work, or be allowed to so work, in a school kitchen unless he or she is physically and mentally able to do so safely and satisfactorily and meets the requirements of 902 KAR 45:005, Section 11.

Section 2. [Beginning with the 1989-90 school year,] A condition of initial employment in a school kitchen shall be completion of the beginning school food service personnel training course prescribed by the State Board for Elementary and Secondary Education and issuance of a Kentucky school food service employee certificate by the chief state school officer [Superintendent of Public Instruction], based upon evidence submitted to the Kentucky Department of Education, Division of School Food Services, from a certified instructor that all training requirements have been fulfilled under the provisions of this regulation. The prescribed training course for certification of beginning school food service personnel shall consist of the following instructional units and minimum instructional clock hours:
(1) School food service rules and regulations - 1 hour;
(2) Sanitation - 1 hour;
(3) Safety and first aid - 1 hour;
(4) Food preparation and merchandising - 1 hour;
(5) Equipment use and care - 1 hour;
(6) Efficient use of resources - 1 hour; and
(7) Nutrition education - 1 hour.

Section 3. Those incumbent school food service personnel who voluntarily complete the beginning school food service personnel training course shall also be issued a Kentucky school food service certificate as prescribed in Section 2 of this regulation.

Section 4. [Beginning with the 1990-91 school year,] All certificate holders shall be required to renew their certificates annually by satisfactorily completing a minimum of four (4) hours of in-service training conducted by a certified instructor and relevant to the curriculum established under the standards set forth in Section 2 of this regulation.

Section 5. The local school food authority may issue a temporary school food service employee permit if it is necessary to initially employ an applicant on an emergency basis as a replacement or additional staff position, provided that the applicant meets the qualifications sets forth in Section 1 of this regulation. This permit shall [will] be valid only for a period of forty (40) work days and shall be nonrenewable. In order to continue working after this forty (40) day period has expired, the applicant shall fulfill the requirements of Section 2 of this regulation.

Section 6. Beginning substitute school food service personnel shall fulfill the following requirements:

(1) Be employed with a temporary permit for forty (40) work days from the date of employment;

(2) A substitute certificate shall be issued upon completion of four (4) hours of training as defined in Section 2 of this regulation in the following areas:

(a) Equipment use and care;

(b) Safety and first aid;

(c) Sanitation; and

(d) Food preparation and merchandising.

(3) Renewal of this certificate shall be based upon satisfactorily completing two (2) hours of training in any of the areas listed in Section 2 of this regulation [one-half (1/2) of the requirement specified in subsection (2) of this section].

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: November 14, 1990

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

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: Paul McElwain

(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: 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: N/A

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. Affects all districts equally.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of School Administration and Finance
(Proposed Amendment)

702 KAR 6:050. Lunch and breakfast requirements.

RELATES TO: KRS 156.031 [156.100], 160.380, 161.140, 7 CFR 210.8, 2.0.10, 42 USC §1751 to 1769b, §1771 to 1789

STATUTORY AUTHORITY: KRS 156.035, 156.070, 156.160

NECESSITY AND FUNCTION: This regulation is needed to carry out the Congressional intent of the National School Lunch Act of 1946, the Child Nutrition Act of 1966 and all amendments thereto, and is needed to require schools to serve a complete breakfast and lunch without discrimination.

Section 1. Schools that participate in the national school lunch and breakfast programs shall serve a complete breakfast, hot or cold, as defined by 7 CFR 220.8 [federal regulations], and the noon meal shall be a complete lunch, hot or cold, as defined by 7 CFR 210.10 [federal regulations], and serving shall be of such size as to provide at least one-third (1/3) to one-half (1/2) of the daily nutritive requirements of the school age child being served.

Section 2. Lunches shall be made available to all children attending each school and shall be served without cost or at a reduced cost to all school children who are predetermined by school

authorities to be unable to pay the full cost of the meal. Schools serving breakfast shall apply the above cost rule to all children attending the school.

Section 3. No physical segregation or other discrimination against any child shall be made by school officials because of his inability to pay the full cost of a meal.

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: November 14, 1990
FILED WITH LRC: November 15, 1990 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: Paul McElwain
(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: None
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. All districts affected equally.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of School Administration and Finance
(Proposed Amendment)

702 KAR 6:060. Time minimum for meals.

RELATES TO: KRS 156.031, 156.160 [156.100, 160.380, 161.140]
STATUTORY AUTHORITY: KRS 156.035, 156.070, 156.160
NECESSITY AND FUNCTION: This regulation is needed to carry out the Congressional intent of the National School Lunch Act of 1946, the Child Nutrition Act of 1966 and all amendments thereto, and is needed to allow sufficient time for school children to eat. Reconsideration and refiling of this regulation is required pursuant to KRS 156.031.

Section 1. The school lunch period, if a part of a closed schedule, shall allow adequate time for each child to take care of his personal hygiene and enjoy a complete meal in an educational setting and the school breakfast period shall be a part of the school day that also allows adequate time for each child to enjoy a complete breakfast.

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: November 14, 1990
FILED WITH LRC: November 15, 1990 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: Paul McElwain
(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: None
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. All districts affected equally.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of School Administration and Finance
(Proposed Amendment)

702 KAR 6:090. Competitive food and beverage sales and service requirements.

RELATES TO: KRS 156.010, 156.031, 156.035, 156.160, 156.200, 7 CFR 210.11, 42 USC §1751 to §1769b, 42 USC §1771 to §1789
STATUTORY AUTHORITY: KRS 156.031, 156.035, [156.070,] 156.160, 7 CFR 210.11
NECESSITY AND FUNCTION: This regulation is promulgated under the authority of the State Board for Elementary and Secondary Education's statutory mandates to implement federal education assistance programs and to protect the physical welfare and safety of public school children, and is needed to carry out the Congressional intent of the National School Lunch Act of 1946, the Child Nutrition Act of 1966 and all amendments thereto. This regulation is necessary to ensure that students have an opportunity to fully avail themselves of at least one (1) meal planned with their dietary and nutritional needs in mind. Reconsideration and refiling of this regulation is required by KRS 156.031.

Section 1. (1) This regulation deals with the sale and service of food and beverages in competition with the School Breakfast Program or the National School Lunch Program, by reason of such being conducted by student or parent organizations or school personnel through food sales, snack bars, or vending machines on the school campus.
(2) The sale or serving of any food or beverage item to students in competition with the School Breakfast Program or the National School Lunch Program shall be prohibited on the school campus during the school day until one-half (1/2) hour after the close of the last lunch serving period.

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: November 14, 1990
FILED WITH LRC: November 15, 1990 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: William P. McElwain, Jr.
(1) Type and number of entities affected: All local school districts.
(a) Direct and indirect costs or savings to those affected: Unable to estimate.
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: 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: May reduce monies available to principal's school accounts; may increase revenues to food service programs in local districts.
(4) Assessment of alternative methods; reasons why alternatives were rejected: Outreach and education have failed.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. All school districts are affected equally.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 7 CFR 210.11.
2. State compliance standards. Currently, 702 KAR 6:070(8).
3. Minimum or uniform standards contained in the federal mandate. Prohibits the sale of foods of "minimum nutritional value" as set forth in Appendix B of 7 CFR 210 in the serving area during the serving period.
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? Yes
5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The list of foods of "minimum nutritional value" is so small and so unrepresentative of the variety of vended foods and beverages available that our students are still exposed to and have the opportunity to buy an array of foods that do not contain the nutrients required to enable them to make the fullest use of their capacity to learn. Prohibiting the sale of any food or beverage in competition with the local school breakfast and/or school lunch program until after the serving period will give our students at least an "undistracted" opportunity to partake of at least one meal that has been planned with their dietary and nutritional needs in mind.

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

704 KAR 3:292. Chapter 1, ESSIA migrant education requirements.

RELATES TO: KRS 156.031, 156.010, 156.035, 156.070
STATUTORY AUTHORITY: KRS 156.035, 156.070
NECESSITY AND FUNCTION: In accordance with Section 435 of the General Education Provisions Act and sections 1201, 1202, and 1203 of the Augustus F. Hawkins - Robert T. Stafford Elementary and Secondary Improvement Amendments of 1988, the Department of Education, when applying to the U.S. Department of Education for participation in programs for migrant children under Chapter 1 of the Education Consolidation and Improvement Act of 1981, must submit an approvable plan and satisfactory assurances that all requirements of the law will be met. This regulation implements the State Board for Elementary and Secondary Education's duties to develop education policy, to implement acts of Congress appropriating and apportioning funds to the state and to provide for the proper apportionment and disbursement of federal migratory children funds in accordance with the state's current plan. Reconsideration and refiling of this regulation is necessary under KRS 156.031.

Section 1. Local education agency program applications for federal migratory children funds shall be authorized by the local board of education prior to submission to the Kentucky Department of Education.

Section 2. (1) The Department of Education, in submitting a three (3) year plan, for fiscal years 1990-1992, shall phase out regular school term academic programs for migratory children by the end of year three (3) and phase in substitute summer term programs. The phasing in of a student advocate at the local district level shall be implemented, with such a person to be employed half to full-time, year round, and to be responsible for recruitment activities, acting as an advocate for migrant children, and for identifying and coordinating the resolution of problems relating to both home and school.
(2) Local school districts shall provide services to migrant children, as follows, with all children to receive support services as appropriate:

Currently Migrant Children (Ages 5-17)

Year 1	Language Arts Advocate Support Funds	regular or summer school part to full-time
Year 2	Language Arts Advocate Support Funds	regular or summer school part to full-time
Year 3	Language Arts Advocate Support Funds	summer school part to full-time

Currently Migrant Children (Ages 3-4)

Year 1 Service during regular school year via preschool appropriate materials and home visitation by the advocate. Referral to and service through Headstart. Summer school programs (preparation for kindergarten).

Year 2 Same

Year 3 Same

Currently Migrant Youth (Ages 18-21)

Student advocate activities in arranging for and referral to GED programs, adult education

programs, Kentucky Migrant Farm Workers' Project (DOL 402 Project), JTPA projects, and others as appropriate.

Formerly Migrant Children (Ages 3-21)

Similar services, as resources permit.

(3) All currently migrant children (ages 3-21) regardless of need are first priority. Formerly migrant children shall be served, based upon need, as funds permit.

(4) Summer school programs shall be a minimum of six (6) weeks in duration.

Section 3. (1) Annually prior to November 1, [1989,] local district migrant coordinators (or migrant advocates) shall geographically locate the currently migrant children (ages 3-4), visit the home, and get acquainted with parents. Coordinators shall ascertain current intervention by other educational programs (such as Headstart, PACE, and nursery schools), assess the level of parent educational attainment, and determine the degree of parental cooperation or interest in services. The record of this first visit including demographics, data verification, educational level of parents, current intervention, and degree of interest or cooperation, shall provide baseline data and facilitate preparation for a second home visit [before March 7, 1990].

(2) Annually during the months of February and March, [1990,] the LEA migrant student advocate shall then arrange a second home visit to deliver a predeveloped packet and train the parents in suitable developmental activities with a prekindergarten child. A record or log of the visit - i.e., date, parent and child, time-in-training, attitude toward intervention, anticipated progress, concerns or apprehensions - shall be kept.

(3) Annually on or about May 1, [1990,] the advocate shall next visit the home to assess the value of the packet from the parent's perspective and to enroll the child in the summer school prekindergarten program if locally available [in the summer of 1990].

(4) If the summer school was [is] not operational in the summer of 1990, the migrant advocate shall bring migrant parents and their prekindergarten children to a central location (school) to share experiences using the training packets and to collect evaluation data on the effectiveness of parent-child activity. This gathering shall provide a forum for discussing readiness for kindergarten, the value of schooling, and the importance of parent involvement in the learning process.

(5) During the second year, the prekindergarten objectives from the first year shall be continued with the revision of training packets and more emphasis on acceleration for economically deprived and educationally disadvantaged children in a six (6) week summer school prekindergarten program, including participation in a federally funded nutrition program.

(6) During the third year, the prekindergarten objectives from the first year (appropriate referral and parent and [/] child stimulation) shall continue, with all currently migrant children having an opportunity for a summer school prekindergarten acceleration program in 1992.

Section 4. [(1) During the regular school year, August 15, 1989, to June 1, 1990, the LEA migrant teachers and aides shall serve approximately 1,200 currently migrant school age students, ages five (5) through seventeen (17). They shall be served in the traditional supplemental instructional tutorial approach and the pullout model in language arts which supplements reading, writing, listening, and speaking skills needed in regular classroom activities. As an alternative, the LEA project staff may elect to play a supportive role only during the regular school term and use an advocacy model. This model shall facilitate good attendance, positive attitude, good nutrition and grooming, health maintenance, class preparation, serious study, and improved academic performance as measured by norm-referenced, standardized achievement tests, percentage of attendance, and promotion or retention. Any opportunity to participate in a six (6) week migrant summer school instructional program shall maintain basic skills, provide a broad program of enrichment, and develop study skills leading to acceleration and motivation.]

(1) [(2)] During the second year of the plan, the Department of Education staff, in cooperation with the LEA projects staff, shall continue the gradual phasing out of the migrant supplemental instruction role in favor of a strong advocacy role of supportive service during the regular school term and the extended instructional program for all migrant students (currently and formerly) via the six (6) week summer school program.

(2) [(3)] In the third year of the plan, the Department of Education staff shall realize the full implementation of the advocacy model with new advocates being trained on site by LEA projects staff who have demonstrated ability in getting the best for students from school personnel, the home, and the community. Baseline assessment data shall be established after which exceptions in trend data will alert staff to areas of strength and weakness or neglect. The summer schools shall be monitored for effectiveness in reducing the educational gap, and summer school staff shall be given opportunities for staff development.

Section 5. (1) [During the 1989-90 school year,] The Kentucky Migrant Education program staff shall develop and implement procedures for locating approximately thirty-five (35) currently migrant youth, less than twenty-two (22) years of age, who have dropped out of school before attaining a high school diploma or its equivalent, and for cultivating an interest and determination to act on a referral to an adult education program, a GED class, a vocational school, or return to the regular secondary school. A log or case study shall document the effort and success of initiatives by migrant advocates.

[(a) Before September 15, 1989, the Department of Education staff shall develop an interagency coordinating council of persons responsible for the delivery of educational and supportive services to youth in an alternative environment for the purpose of coordinating those services in the interest of migrant youth that failed to attain a high school diploma. Admissions procedures and requirements shall be shared and recorded.]

(a) Annually [(b)] before September 1, [1989,]

the LEA migrant coordinators or migrant student advocates shall geographically locate currently migrant dropouts or residency only youth, visit the family, get acquainted with the youth, assess the attitude and interest in further schooling, learn of any current intervention by other agencies, and explore needs. Data gathered shall be recorded as a needs assessment.

(b) [(c)] The LEA migrant student advocate shall work individually to secure the participation and completion of the most appropriate alternative educational program for each such youth. The value of the advocates' work shall be measured by youth participation, regular attendance, consistent preparation and application, and successful completion.

(c) [(d)] Similar activities with currently migrant youth, ages sixteen (16) to twenty-one (21), shall continue during the second and third year of the plan, and the local migrant advocate shall continue to transition such youth to alternative educational programs and even seek to intervene before dropout occurs.

(2)(a) LEA personnel shall help locate eighteen (18) to twenty-one (21) year old current migrant adults who have not attained either high school graduation or a GED. These persons shall be referred to the local adult education agency. These identified adults shall be encouraged to become involved in the local adult education or HEP program.

(b) Similarly, any eligible eighteen (18) to twenty-one (21) year old who is handicapped shall be referred to the local rehabilitation office.

(c) Sixteen (16) and seventeen (17) year old currently high school dropouts located during recruiting shall be encouraged to return to school. If they choose not to return to school, they shall be referred to adult education and rehabilitation programs, as appropriate.

Section 6. (1) The Department of Education migrant program evaluator shall guide LEA coordinators in the maintenance of an LEA migrant database that shall be [is] updated annually by May 30. The database shall contain demographic information requested by the federal Secretary of Education, attendance (days present and days absent), achievement status (promoted or retained), migrant funded instructional and supportive services received, other supplemental services, special education services, and achievement performance as measured by the statewide or local assessment instrument[, the Comprehensive Test of Basic Skills, Fourth Edition (CTBS/4), given annually in May].

(2) The LEA migrant staff, using the migrant database, shall complete a self-assessment of the LEA migrant project based on the program application and budget approved by the Department of Education.

Section 7. Success of the migrant program shall be measured in academic achievement [by the CTBS/4]; improved attendance; promotion or graduation; reducing the dropout rate; and the general well-being of the student as gathered from interviews with students, teachers and parents.

Section 8. Each local applicant shall be required to submit an approvable budget. Monthly finance reports denoting expenditures by code(s) (as per the Kentucky School Financial Accounting System Manual) shall be submitted. LEA expenditures for equipment costing $150 or more, and all computer equipment, shall have prior approval from the Department of Education.

Section 9. (1) Final allocation of federal migrant funds for each LEA shall be based upon the current FTE generated during the preceding calendar year, with such figure to be adjusted due to size, scope, and quality of the proposed project. Other factors determining allocation amounts shall be monitoring results, evaluation data, unused previous year funds, and whether program designs reflect state and local needs assessment results.

(2) New recruitment projects shall be funded ten (10) to fifteen (15) hours per week at five (5) dollars to seven (7) dollars per hour plus eighteen (18) cents per mile for travel. New projects shall begin as summer projects based upon recruitment results obtained over a minimum recruitment period of not less than six (6) months prior to application for a summer school. Other factors are:

(a) Results of monitoring of each LEA program if current (last year);

(b) Evaluation data of year just completed;

(c) Whether program design is reflective of state and local needs assessment data; and

(d) Unused funds from the previous year.

(3) All project applications, regardless of size, shall be given consideration for funding if there are currently migrant children residing in the district. In the event of limited numbers of currently migrant children (less than five (5)), the Department of Education shall first consider funding for those districts where more substantial numbers of currently migrant children reside.

(4) LEA's shall use teachers who are certified in the grade levels of children with whom they work, but the Department of Education reserves the right to approve the use of teachers who are out of their certification range so long as the majority of students assigned to the teacher are within the certificated grade range. Once LEA's move to summer school academic programs only, teachers shall not be permitted to work with children out of their certificated range.

(5) Projects shall be designed in consultation with parents and teachers, and written documentation of such consultation is required.

Section 10. All instructional staff paid with migrant funds shall be required to provide instructional services only upon consultation with and direction from the regular classroom teacher. They shall be [are] required to document consultation and the subject matter content determined by the regular classroom teacher. Handicapped migrant students receive special education services as would any other child. Migrant (academic) services to handicapped migrant children shall only be provided through consultation with special education teachers. Documentation shall be [is] required at the LEA level and checked during monitoring.

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: November 14, 1990
FILED WITH LRC: November 15, 1990 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: Joanne Brooks
(1) Type and number of entities affected:
(a) Direct and indirect costs or savings to those affected:
1. First year: LEAs may claim indirect costs as per formula under Kentucky School Financial Accounting System guidelines.
2. Continuing costs or savings: As allowable each successive program year.
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: LEAs must file monthly finance reports.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: SEA generates additional 1% indirect cost dollars on total grant award.
2. Continuing costs or savings: 1% of each year's grant.
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: Annual report to USDE.
(3) Assessment of anticipated effect on state and local revenues: N/A
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:
(a) Necessity of proposed regulation if in conflict: N/A
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A
(6) Any additional information or comments: None

TIERING: Was tiering applied? No. Not allowed with these funds.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Public Law 100-297, Section 1202; 34 CFR 201 inclusive.
2. State compliance standards. N/A
3. Minimum or uniform standards contained in the federal mandate. Children are eligible if they move with or join parents within 12 months of a move wherein the parents are seeking temporary or seasonal employment in agriculture or fishing occupations.
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No
5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. N/A

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

704 KAR 3:307. Recognition of credits when transferring without transcript.

RELATES TO: KRS 156.031, 156.160, 158.140
STATUTORY AUTHORITY: KRS 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 156.160 requires the State Board for Elementary and Secondary [of] Education to adopt regulations setting forth the [minimum] courses of study for the different grades [and determining the scope of instruction that may be offered in the different classes] and the minimum requirements for high school graduation; and KRS 158.140 mandates the assignment of a pupil to the class or grade to which the pupil is best suited. This regulation prescribes procedures for recognition of credits for graduation from a public secondary school upon transfer from a nonaccredited secondary school and for the awarding of credit upon transfer to a public secondary school without a proper transcript being reasonably available.

Section 1. For the purposes of this regulation, a "nonaccredited secondary school" is a school enrolling students for secondary school instruction when that school is not recognized as accredited, or voluntarily complying with accreditation standards, by one (1) of the fifty (50) state departments of education or one (1) of the seven (7) independent regional accrediting associations. A "nonaccredited secondary school" in Kentucky shall be any private school not certified pursuant to KRS 156.160(3).

Section 2. (1) The local school district shall be responsible for the appropriate assignment of a student transferring from a nonaccredited secondary school to the class or grade best suited for the student. Previous credit earned by a student in a nonaccredited secondary school

shall be awarded by the local school district by one (1) of the two (2) following methods:

(a) Pass an examination of similar nature and content to the examination used for other students receiving credit for a particular course within the school district and graded on a comparable basis; or

(b) Successful performance of the student in a higher level of the course when the courses are sequential in nature such as English, mathematics, history, and science. Successful performance shall consist of [be defined as] achieving at least a C [an average] grade in the course by the 12th week of school.

(2) The courses successfully completed by examination or performance shall be counted toward minimum high school graduation requirements in the local school district.

Section 3. A student desiring recognition of previous credits toward graduation upon entering a public secondary school [from a nonaccredited secondary school] without a properly certified transcript, and for whom a properly certified transcript cannot reasonably be obtained, shall be placed and awarded credit as outlined in Section 2 of this regulation.

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: November 14, 1990

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

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: Kay Freeland

(1) Type and number of entities affected: 176 school districts.

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

1. First year: No change.

2. Continuing costs or savings: No change.

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

(b) Reporting and paperwork requirements: Paperwork requirements remain.

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

(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:

(b) Reporting and paperwork requirements: Remain the same.

(3) Assessment of anticipated effect on state and local revenues: No effect.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Amendment needed to comply with KRS 156.031.

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments:

TIERING: Was tiering applied? No. The regulation is applied equally to all school districts.

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

704 KAR 3:335. State plan for the administration of Chapter 2, of the Augustus F. Hawkins - Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988.

RELATES TO: KRS 156.031, 156.035

STATUTORY AUTHORITY: KRS 156.031, 156.035, 156.070

NECESSITY AND FUNCTION: This regulation implements the State Board for Elementary and Secondary Education's plan approval and federal statute implementation functions under KRS 156.031 and 156.035 relative to federal funds received under Chapter 2 of the Augustus F. Hawkins - Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988. Reconsideration and refiling of this regulation is required by KRS 156.031.

Section 1. Pursuant to the authority vested in the State Board for Elementary and Secondary Education, the Kentucky State Plan for Chapter 2 of the Augustus F. Hawkins - Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, shall be prepared and approved by the State Board for Elementary and Secondary Education, in accordance with the appropriate federal guidelines, and submitted to the U.S. Secretary of Education for his approval.

Section 2. Formula and Criteria for Distribution of Chapter 2 Funds of the Augustus F. Hawkins - Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988.

The following criteria, to be funded by eighty (80) percent of the total state grant, have been developed in consultation with the Governor's Advisory Committee and shall be applied to meet the requirements of Section 1512(a)(1)(3) of the Augustus F. Hawkins - Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 regarding Chapter 2 funds:

(1) Ninety-one and three-tenths (91.3) percent of the funds distributed to local educational agencies shall be based on the enrollment of pupils in public and participating private, nonprofit schools using data from the end of the first school month, as updated by the local educational agencies, for the school year prior to the one for which funds are being awarded.

(2) A total of eight and seven-tenths (8.7) percent of the funds shall be distributed to the local educational agencies which have the greatest percentage of children whose education imposes a higher than average cost per child as determined by considering those from low income families (five and five-tenths (5.5) percent) as well as those with a high degree of sparsity (three and two-tenths (3.2) percent).

Section 3. Funds Reserved for State Use. Twenty (20) percent of the funds shall be retained by the Kentucky Department of Education. Of the twenty (20) percent, twenty-five (25) percent shall be used for administrative and twenty (20) percent shall be used for effective school programs as described in Section 4 of this regulation, with the remainder of the funds going to the programs referred to in Sections 5, 6, 7, 8, 9, and 10 of this regulation.

Section 4. Effective Schools. This project is designed to develop a uniform effective schools program that enhances school based programs, promotes a climate of quality education for all children in the Commonwealth, improves student performance, and promotes educational wellness for all citizens.

(1) Project activities shall be as follows:

(a) Develop a statewide "effective schools council";

(b) Contract with a nationally recognized "effective schools" leader to assist the Kentucky Department of Education in developing a scope and sequence that departmental personnel shall use in working with the local schools;

(c) Train teams of effective schools specialists to help local school districts develop individual school site-based management involving the principal, teachers, parents, and community;

(d) Conduct statewide regional conferences to promote the understanding of quality effective schools programs;

(e) Provide seed money for the development of the effective schools program at the local school building site.

(2) Each local school that chooses to participate shall identify program achievement standards to be addressed over a three (3) year period of time:

(a) Effective school leadership which creates consensus on instructional goals and builds a capacity for instructional problem solving;

(b) An emphasis on the acquisition of basic and higher order thinking skills;

(c) A safe and orderly school environment that allows teachers and pupils to focus their energies on academic achievements;

(d) A climate of expectation that virtually all children can learn under appropriate conditions; and

(e) A continuous assessment of students and programs to evaluate the effects on instruction.

(3) The effective schools specialists teams, using the training received from a nationally recognized "effective schools" leader, shall work with the schools on a continuous basis using this model to increase the academic achievement levels of all children and particularly educationally deprived children.

(4) This project shall be evaluated by the degree of improvement on test scores.

Section 5. At Risk and Higher Cost Student Programs. This project is designed to develop statewide programs that meet the educational needs of students at risk of failing or dropping out of school, and students for whom providing an education entails higher than average cost. The goal is to promote a climate of quality education for all at-risk students in the Commonwealth.

(1) The activities for this project shall be as follows:

(a) Develop a statewide "at-risk school council";

(b) Contract with a nationally recognized educational leader to consult with Department of Education personnel, and to develop a scope and sequence that departmental education personnel can use in working with the local schools;

(c) Develop and train a cadre of people to work with local school districts to utilize individual school site-based management involving the principal, teachers, parents, and community to achieve an ongoing at-risk student program;

(d) Conduct statewide regional conferences to increase the level of knowledge of at-risk students and assist in the development of programs to serve them; and

(e) Provide seed money for the development of the at-risk program at the local school building site.

(2) The evaluation of this project shall be based on the degree of decrease of the dropout rate in the state.

Section 6. Personal Excellence and Achievement of Students. This project shall be for programs designed to enhance personal excellence of students. The goals for this project shall be to recognize individual students and groups that have attained academic or cultural excellence and to motivate the students who are not working to their potential.

(1) Activities for this project shall be as follows:

(a) Increased utilization of the Commonwealth Diploma, which is a supplementary higher level diploma for academically gifted students; and

(b) Academic statewide competition to showcase student achievement.

(2) The evaluation of this project shall be based on the number of students affected by the activities for this project.

Section 7. Innovative Projects. This project shall be used to provide discretionary grants for innovative projects that will enhance the educational program and climate of the schools.

(1) Grants shall be based on the following

factors:
(a) Low achieving school districts;
(b) Lack of local revenue to support supplementary innovative programs; and
(c) Innovative projects that shall [will] serve as models to be disseminated statewide.
(2) This project shall utilize the National Diffusion Network as well as local district developed models for programs that are greatly needed to enhance the overall climate of the schools. The programs used by the local schools shall be evaluated for their effectiveness in promoting sound education programs and providing a positive climate for the total school.

Section 8. Personal Excellence and Student Achievement Programs for Participating Private, Nonprofit Catholic Schools. This program is designed to measure the effectiveness of the education program in parochial schools in promoting personal excellence and student achievement. Such measurements shall be achieved by using the following:
(1) A testing program that shall [will] permit the schools to correlate student achievement with curriculum and make appropriate curriculum adjustments to enhance student achievement; and
(2) After the test is administered, the results shall be studied and analyzed in order to correlate student ability and student achievement with appropriate learning activities.

Section 9. Innovative Projects for Catholic Schools. (1) This target program, as provided for in Section 7 of this regulation, is designed to provide innovative activities to enhance the educational program using models such as, but not necessarily limited to, the following:
(a) Teacher training in a variety of new innovative models for higher order thinking skills of students. This shall [will] allow the students to apply creative skills to all areas of the curriculum; and
(b) Purchase of new innovative computer software to provide for computer assisted instruction. This activity shall [will] create new interest in the students and promote student achievement.
(2) Each activity shall be evaluated as to the effect it has on promoting student achievement and personnel excellence.

Section 10. Training and Professional Development Programs for Participating Private, Nonprofit Schools Other than Catholic Schools. This project shall be used to provide equitable participation and funding for training and professional development projects that will enhance the knowledge and skills of educational personnel including teachers, librarians, school counselors, other pupil services personnel, administrators, and school board members of the participating private, nonprofit schools.
(1) Project activities shall include, but not necessarily be limited to, the following:
(a) Statewide conference;
(b) Statewide regional conferences;
(c) Professional development grants with the control of funds remaining in the Kentucky Department of Education.
(2) These activities shall be monitored to assure only secular, neutral, and nonideological services are provided.

Section 11. Distribution of Funds. Of the Chapter 2 grant received by the Department of Education, at least eighty (80) percent shall be distributed to local school districts on a formula basis. The department shall distribute these funds according to enrollments (membership of school year prior to that in which the payment is to be made) in public and participating private, nonprofit schools within each local district's area. Entitlements shall be adjusted to provide higher per pupil allocations to local districts which have the greatest percentages of children whose education requires a higher than average cost. Local districts shall be informed by June of each year of the amount of funds which are to be received for public and participating private, nonprofit school students for programs beginning on July 1. Local districts shall submit an application, and the application shall describe the planned use of funds among targeted assistance projects.

Section 12. Complaint Procedures for Local Districts. The superintendent of a local district may file with the [Division of Support Services,] Department of Education a written complaint pertaining to the allocation of Chapter 2 funds to that district. The written statement shall include a detailed statement of facts upon which the complaint is based, and shall be addressed and resolved by the Department of Education.

Section 13. Complaint Procedures for Private, Nonprofit Schools. A person or private, nonprofit school may file with the Department of Education [Division of Support Services] a written complaint alleging that children enrolled in private, nonprofit schools within a certain local district are not receiving benefits on an equitable basis. The written complaint shall include a detailed statement of facts upon which the allegation is based, and shall be addressed and resolved by the Department of Education.

Section 14. Requirements to Supplement and Not Supplant Other Funds. Local districts and the State Department of Education shall use funds received under Chapter 2 only to supplement and increase the level of funds that would be made available from nonfederal sources. In no case shall [may] these funds be used to supplant or take the place of funds from nonfederal sources.

Section 15. Expenditure Report Form. Each year a Chapter 2 Expenditure Report Form shall be submitted to the Department of Education [Division of Support Services] upon expending fifty (50) percent of the fiscal year funds and upon expending 100 percent of the fiscal year funds. Obligations made prior to September 30 shall be liquidated on or before September 30 of the subsequent project year. Unobligated funds shall be expended within the following year, ending September 30. Permission to expend these funds for a purpose which differs from that stated in the originally approved application form shall be obtained in writing from the Department of Education.

Section 16. Annual Supplement to the Three (3) Year Application. Annually the state shall require local districts to supply information concerning the number of students who are being

served by Chapter 2 funds, how the funds are being used, and the types of services furnished.

Section 17. Local Monitoring and Evaluation Requirements. (1) In its Chapter 2 application, a local district shall assure that a number of requirements have been met. The district shall keep such documentation as may be necessary to verify the meeting of these requirements. Documentation shall be available to support the following:

(a) Use of Chapter 2 funds for eligible program purposes;

(b) Availability of appropriate fiscal and programmatic records for examination;

(c) Systematic consultation with parents, school personnel, and others concerning the allocation of Chapter 2 funds for the various purposes and concerning the planning and implementation of programs under Chapter 2;

(d) Consultation with appropriate private, nonprofit school officials concerning the needs of private, nonprofit school children and the provision of services to meet those needs.

(2) The Department of Education shall conduct monitoring visits in order to verify the information which has been submitted to the state. After a monitoring visit, the local school district shall receive a written report of the findings of the visit. If a local district disagrees with the findings, it may reply in writing to the Department of Education within sixty (60) days of receiving the report. The department shall respond in writing to the district within sixty (60) days of receiving a reply from the district.

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: November 14, 1990

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

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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: Diane Teasley

(1) Type and number of entities affected:

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

1. First year: LEA may claim indirect cost per indirect cost formula approved by the Kentucky Department of Education.

2. Continuing costs or savings: None

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

(b) Reporting and paperwork requirements: LEA must file 50% and final expenditure reports.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: SEA claims an indirect cost as negotiated with the federal government.

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: SEA will generate approximately $1,000,000 for administration over a three year period. The LEAs will generate approximately $17,128,800 over a three year period.

(4) Assessment of alternative methods; reasons why alternatives were rejected: There are no allowable alternatives.

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

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

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: None

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. The regulation applies equally to all districts.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Augustus F. Hawkins - Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, Sec. 1501, 1502, 1511, 1512, 1521, 1522, 1531, 1532, 1533, 1541, 1542, 1571, 1572, 1573, 1574, 1575, 1576, and 34 CFR Parts 76, 77 and 298.

2. State compliance standards. None

3. Minimum or uniform standards contained in the federal mandate. An SEA or LEA that receives Chapter 2 funds: (a) may use and allocate those funds only to supplement and, to the extent practical, increase the level of funds that would, in the absence of federal funds made available under Chapter 2, be made available from nonfederal sources; and (b) may not use Chapter 2 funds to supplant funds from nonfederal sources.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. NA

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

704 KAR 3:365. Chapter I complaint procedure.

RELATES TO: KRS 156.010, 156.031, 156.035, 34 CFR §200.73, §201.47
STATUTORY AUTHORITY: KRS 156.031, 156.035, 156.070
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 KRS 156.010, 156.031, and 156.035 provide the state statutory framework for complying with federal funding programs and for receiving and allocating federal education funds; and 34 CFR §200.73 and 34 CFR §201.47 require the Department of Education, when applying for participation in programs for disadvantaged children under Chapter I of Public Law 100-297 (the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988), to show written evidence of complaint procedures particular to disadvantaged and migrant children under Chapter I. This regulation establishes such complaint procedures.

Section 1. LEA Procedures. (1) Complaints originating at the local level relative to disadvantaged and migrant children under federal Chapter 1 programs shall be entertained by the Department of Education only after such complaints have been filed and heard at the local level in accordance with local education agency policy. Such complaints shall be in written form. Persons making written complaints shall register such complaints with the Director, Division of Compensatory Education, Kentucky Department of Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.
(2) Written complaints requiring a formal hearing shall be referred to a complaint committee. Members of this committee shall include, as a minimum, the chief state school officer [Deputy Superintendent for Instruction] (or designee); Director, Division of Compensatory Education; unit director; and the program consultant serving the affected LEA. The committee shall conduct a hearing within thirty (30) days following the receipt of complaints requesting a formal hearing.

Section 2. Upon receipt of the request for a formal hearing, the Department of Education shall make the necessary on-site investigation of the complaint. Such on-site investigation shall:
(1) Be made following adequate advance notice to the parties involved;
(2) Include the gathering of information through interviews and examination of records, considering each allegation of the complaint; and
(3) Provide appropriate opportunities for the complainant(s) and the LEA to present evidence concerning the allegations.

Section 3. Opportunity shall be provided for the complainant or the complainant's representative, or both, and the LEA involved to submit evidence, including the opportunity to question parties to the dispute or any of their witnesses. All investigations and the solutions of complaints shall be completed within sixty (60) days unless the complainant(s) is notified, in writing, to the contrary. If exceptional circumstances exist with respect to a particular complaint, an extension of the time limit shall be granted by the Department of Education.

Section 4. An involved party may appeal the final Department of Education resolution to the United States Commissioner of Education if notice of such appeal is filed with the commissioner within thirty (30) days of the receipt of the Department of Education's written decision.

Section 5. If the LEA fails to take corrective action following a final determination of a formal complaint, the Department of Education shall use one (1) or more of the following methods to assure such action:
(1) Follow-up visits by Department of Education staff to determine whether the agency is taking the required corrective action;
(2) Compliance agreement; and
(3) Withholding of funds.

Section 6. SEA Procedures. Complaints by an outside organization or individual may be filed through a written signed complaint concerning any alleged state (SEA) violation of a federal statute or regulation that applies to Chapter 1 LEA programs. The complaint shall include the facts on which the statement is based. Complainants shall register such complaints with the chief state school officer. The same procedures outlined in Sections 1, 2, 3, and 4 of this regulation shall be followed insofar as practicable.

Section 7. [6.] Dissemination, free of charge, of information concerning these procedures shall be made to all interested parties including district and school advisory councils.

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: November 14, 1990
FILED WITH LRC: November 15, 1990 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written

notification of intent to be heard at 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: Joanne Brooks
(1) Type and number of entities affected: All LEAs operating Chapter 1 programs and parents of such children - potential 176 LEAs.
(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: Filing a written document in the event of a complaint.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: Operational costs to investigate complaints.
2. Continuing costs or savings: Same
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: SEA files written findings to complaints.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: Federal law requires this complaint procedure.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: None
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: None
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. Tiering not required.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Chapter 1 law - 1988 - Section 1012. Chapter 1 regulations - 1989 - 200.10.
2. State compliance standards. State standards do not exceed federal mandate.
3. Minimum or uniform standards contained in the federal mandate. Only requires that the state submit assurance that the program will be carried out according to the Chapter 1 law and regulations.
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No
5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. N/A

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

704 KAR 4:010. Physical education.

RELATES TO: KRS 156.031, 156.160
STATUTORY AUTHORITY: KRS 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 KRS 156.160 requires the State Board for Elementary and Secondary [of] Education to adopt regulations governing course of study, medical inspection, physical and health education and recreation, and other rules and regulations deemed necessary or advisable for the protection of the physical welfare and safety of the public school children. This regulation implements that duty relative to health and physical education instruction.

Section 1. Elementary and secondary physical education programs or courses shall follow the descriptions and requirements recorded in the physical education section of the "Program of Studies for Kentucky Schools, Grades K-12," as adopted in 704 KAR 3:304, and in the minimum unit requirements for high school graduation set forth in 704 KAR 3:305.

Section 2. (1) A local board of education may authorize a child whose parents or guardian present a certificate from a licensed physician to the effect that because of the child's physical condition, participation in the required one-half (1/2) unit physical education course in high school is not in the best interest of the child, to substitute a physical education course which is within the capabilities of the child as specified by the child's physician.
(2)(a) A local board of education is authorized to exempt any child from the graduation requirements for physical education when the local board receives an affidavit from the parents of the child and the leader [pastor] of a [the] church certifying that the child is a member of the church or religious denomination, the teachings of which are opposed to the physical education curriculum or attire. The affidavit shall identify the church tenet giving rise to such conscientiously held opposition, and any exemption hereunder shall not reduce the total number of credits necessary for graduation under 704 KAR 3:305.
(b) The local school district may, in the alternative, maintain the requirement of physical education for graduation, by allowing for more modest dress or classes segregated by sex for those students having conscientious religious objections if such will reasonably accommodate such objections.

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: November 14, 1990
FILED WITH LRC: November 15, 1990 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: Kay Freeland
(1) Type and number of entities affected: 176 school districts.
(a) Direct and indirect costs or savings to those affected:
1. First year: No change.
2. Continuing costs or savings: No change.
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: Paperwork requirements remain.
(2) Effects on the promulgating administrative body: No effect.
(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:
(b) Reporting and paperwork requirements: Remain the same.
(3) Assessment of anticipated effect on state and local revenues: No effect.
(4) Assessment of alternative methods; reasons why alternatives were rejected: Amendment needed to comply with KRS 156.031.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are none.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. The regulation is applied equally to all districts.

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

704 KAR 5:060. Entrance of five (5) year olds into primary school program [kindergarten] for compulsory attendance purposes.

RELATES TO: KRS 156.031, 159.010, 159.020
STATUTORY AUTHORITY: KRS 156.070, 159.130
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 KRS 159.010 and 159.020 require any five (5) year old child who has voluntarily "entered" the primary school program [kindergarten] to thereafter be subject to compulsory attendance laws. This regulation is necessary to interpret official and final entry into the primary school program [kindergarten] for such children to occur only after the first two (2) months of school to allow for withdrawal of five (5) year olds demonstrating a lack of maturity or readiness for beginning the primary school [kindergarten] program.

Section 1. Any five (5) year old child not otherwise subject to compulsory attendance laws, but who voluntarily enrolls in the primary school program [kindergarten] at the beginning of the school year, may upon parental or guardian's written request be withdrawn from the program at any time within the first two (2) school calendar months, at the end of such trial period of time such a child shall be considered irrevocably entered into the primary school program [kindergarten] for purposes of KRS 159.010 and 159.020.

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: November 14, 1990
FILED WITH LRC: November 15, 1990 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: Kay Freeland
(1) Type and number of entities affected: 176 school districts.
(a) Direct and indirect costs or savings to those affected:
1. First year: No change.
2. Continuing costs or savings: No change.
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: Paperwork requirements remain.
(2) Effects on the promulgating administrative body: No effect.
(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:
(b) Reporting and paperwork requirements: Remain the same.
(3) Assessment of anticipated effect on state and local revenues: No effect.
(4) Assessment of alternative methods; reasons why alternatives were rejected: Amendment needed to comply with KRS 156.031.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are none.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. The regulation is applied equally to all districts.

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

704 KAR 7:050. Student discipline guidelines.

RELATES TO: KRS 156.031, 158.148
STATUTORY AUTHORITY: KRS 156.031, 156.070, 158.148
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 KRS 158.148 directs the Kentucky Department of Education to obtain statewide data on discipline problems and, in consultation with groups listed in KRS 158.148, develop guidelines containing broad principles to guide local school districts in developing their own discipline codes. These guidelines, developed by the Department of Education in cooperation with the appropriate groups, are hereby adopted by the State Board for Elementary and Secondary [of] Education. This regulation, also, sets up procedures and the time schedule for administering KRS 158.148.

Section 1. The Kentucky State Board for Elementary and Secondary [of] Education hereby adopts and incorporates by reference the "Student Discipline Guidelines, October, 1984" and as amended in November, 1990 [February, 1985], developed by the Department of Education. Copies of such document may be inspected, copied, and obtained from the Division of Student Services, Department of Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, 8 a.m. to 4:30 p.m., Monday through Friday.

Section 2. (1) The local discipline codes developed pursuant to the herein adopted guidelines shall be forwarded by the local school board to the Department of Education [no later than June 1, 1985].
(2) The Department of Education shall review each local discipline code, and if the code appears to meet the established criteria for approval, each local code shall be presented to the state board for review and approval. Review and approval of each specific local discipline code shall be solely for the purpose of certifying that an individual local code complies with the broad guidelines incorporated by this regulation. Approval of the state board shall be communicated to the local district.
(3) If the established criteria for approval are not met by the local code, the local school board shall be informed accordingly and notified [asked] to revise the code in order that it conforms to the broad principles set forth in the herein adopted guidelines. The local school board shall resubmit them to the Department of Education after making necessary revisions.
(4) After approval of the local code by the state board, the school district shall forthwith adopt and implement the code, and inform the Department of Education accordingly. [All local discipline codes, insofar as is practicable, shall be implemented by the beginning of the 1985-86 school year.]
[(5) Beginning with the 1986-87 school year, compliance with this regulation by districts with approved discipline codes will be determined in accordance with provisions to be included in the "Kentucky Standards for Grading, Classifying and Accrediting Elementary, Middle and Secondary Schools."]

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: November 14, 1990
FILED WITH LRC: November 15, 1990 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: Angela Wilkins
(1) Type and number of entities affected: Existing regulation/changes name of state board only.
(a) Direct and indirect costs or savings to those affected:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements:
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues:
(4) Assessment of alternative methods; reasons why alternatives were rejected:
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied?

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

704 KAR 7:070. Guidelines for dropout prevention programs.

RELATES TO: KRS 156.031, 158.148
STATUTORY AUTHORITY: KRS 156.031[(6)], 156.035[(2)], 156.070[(5)], 158.148
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 KRS 158.148 directs the State Board for Elementary and Secondary [of] Education to establish criteria for the development of dropout prevention programs and criteria for awarding grants to school districts which have [the] high[est] dropout rates and[/or] high numbers of dropouts [in the state]. The state board is also directed to prescribe dropout prevention services and to develop grant funding criteria based upon available appropriations. This regulation prescribes the criteria for operation and funding of dropout prevention programs and authorizes the Department of Education to enter into contracts with other agencies for the purpose of securing additional funds for dropout prevention programs.

Section 1. (1) Local boards of education may operate dropout prevention programs for students of high risk for dropping out. A student is considered of high risk for dropping out if he or [/]she meets one (1) or more of the following criteria:
(a) A student who is currently achieving two (2) or more grade levels below his or [/]her age group.
(b) A student who has demonstrated poor academic skills, i.e., who has failed two (2) or more subjects in two (2) of the past four (4) school years.
(c) A student who is consistently absent or tardy and who has been absent twenty-five (25) or more unexcused days in the last two (2) school years and has an overall grade point average below a C.
(d) A student who has been suspended (in-school alternative to home suspension or home suspension) two (2) or more times during the past school year and has an overall grade point average below a C.
(e) A student who becomes pregnant.
(f) A student whose family has a history of dropping out and/or, whose family does not support the student in the completion of school.
(g) A student who little or no participation in school cocurricular activities.
(h) A student who is two (2) or more grades behind in reading or math skills.
(i) A student who shows indication of being socially isolated.
(j) Upon approval of the Department of Education, other indicators supported by strong evidence may also be utilized to identify students of high risk for dropping out.
(2) Funds shall be made available to eligible Kentucky school districts through contractual agreements whereby school districts agree to provide special services designed to prevent students of high risk from dropping out. State appropriated funds shall be utilized first in providing grant awards for dropout prevention programs. These funds may be supplemented by other special funds which may be available to the Department of Education through contracts or grants intended for this purpose.
(a) Eligibility for grant awards shall be based on the following criteria:
1. Twenty (20) dropout prevention programs shall be funded in districts whose dropout rates are among the highest twenty-five (25) districts in the state and who reported more than 100 student dropouts in any of the preceding three (3) school [each] years.
2. Twenty (20) dropout prevention programs shall be funded in districts having high dropout

rates but fewer than 100 dropouts per year.

3. Additional dropout prevention programs shall be funded in districts with dropout rates above the state average dropout rate [and/]or who report more than 100 dropouts each year, if special grant funds are available.

4. Special contract or grant funds may also be used to fund the continuation of successful dropout prevention services in school districts demonstrating a reduction in their dropout rates [and/]or numbers.

(b) Available dropout prevention funds, unless otherwise restricted by legislation or contract, shall be allocated for the use of eligible districts on a pro rata share basis. A percentage shall [will] be determined for each eligible district by dividing the number of reported dropouts of each eligible district by the total number of dropouts for all eligible districts. The resulting percentage shall be used as a multiple with the total funds for distribution to determine the amount of funds to be made available for each eligible district. The number of dropouts to be counted for each district shall be the total dropouts reported by the districts' 1985 [annual] report on file in the State Department of Education.

(c) The Department of Education shall notify school districts of their eligibility to receive funds for operation of dropout prevention programs based upon the rate [and/]or numbers of dropouts within each district during the 1984/85 [most recent] school year [for which such data is available].

(d) School districts may apply for such funds by submitting applications which specify special services to be provided to students who are at high risk of dropping out. Procedures and forms for applications shall be developed by the Department of Education. Applications shall be approved by the Department of Education prior to the encumbrance or expenditure of such funds for a dropout prevention program.

(e) All districts receiving dropout prevention funds as provided for in this administrative regulation shall demonstrate a reduction in the number of youths dropping out as compared to the previous year in order to be eligible for continuation funding. In the 1989-90 [1986-87] school year, the percentage reduction shall be ten (10) [thirteen (13)] percent. Appropriate percentage reductions will be determined by the Department of Education for succeeding years.

(3) School districts applying for such funds shall describe the special service(s) to [which will] be provided to eligible students from the services listed below:

(a) Alternative curriculum provides academic alternatives for rebellious or disruptive students, who have negative feelings for school or staff. Alternative programs, classes or schools provide the students with a neutral territory in which they can develop a positive attitude and build academic successes.

(b) Counseling and [/]advising services provide techniques to fulfill individual needs for a positive self-esteem and personal status through school activities which promote the development of a healthy identity.

(c) Parent involvement services provide teachers and counselors with needed information to make an accurate assessment of student needs. This approach may [can] be implemented through extensive home visits, group conferences or using parents as tutors.

(d) Students-centered services provide a focus on the individual student. All efforts shall be [are] focused on individual needs and differences. These differences shall be [are] respected and individualized goals and objectives for cognition and effective growth are determined and priorities.

(e) Tutorial services provide the extra attention, encouragement and support needed by underachievers. Tutoring may [can] be provided by students (peer tutoring) or specialized staff, at a small cost, to help students gain academic skills, social skills and social maturity.

(f) Work-related services provide opportunities for paid employment to students who face family economic pressure. This approach may utilize several components which include on-the-job experiences, work-related classes, career awareness and [/]exploration activities or vocational courses. It is designed to help students enter the world of work.

(g) Upon approval of the Department of Education, other services which the local district believes may [will] have a significant impact on reducing the dropout rate.

Section 2. All school districts receiving dropout prevention funds shall submit an annual evaluation report. The annual evaluation report shall provide data for each student receiving dropout prevention services. The following data shall be required as a minimum: number of courses passed, number of courses failed, grade point average, NCE score of the Kentucky Essential Skills Test in reading and math, suspension data, and whether or not the student receiving services remained in school.

Section 3. The State Board for Elementary and Secondary [of] Education authorizes the chief state school officer [Superintendent of Public Instruction] to enter into contractual agreements with the Department of Employment Services and other agencies and organizations for the purpose of securing Job Training Partnership Act funds and other special grant and contract funds to be utilized to supplement state appropriations, under the criteria and standards of this regulation, in reducing the numbers of dropouts in the common schools of Kentucky.

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: November 14, 1990

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

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: David C. Jackson
(1) Type and number of entities affected: 40 local school districts.
(a) Direct and indirect costs or savings to those affected: N/A
1. First year: N/A
2. Continuing costs or savings: N/A
3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A
(b) Reporting and paperwork requirements: N/A
(2) Effects on the promulgating administrative body: N/A
(a) Direct and indirect costs or savings: N/A
1. First year: N/A
2. Continuing costs or savings: N/A
3. Additional factors increasing or decreasing costs: N/A
(b) Reporting and paperwork requirements: N/A
(3) Assessment of anticipated effect on state and local revenues: N/A
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(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 changes make no impact upon the program as currently administered but conform the regulation to the KERA of 1990.
TIERING: Was tiering applied? Yes

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

704 KAR 7:090. Homeless children education program.

RELATES TO: KRS 156.031, 156.035, 42 U.S.C. Section 11432
STATUTORY AUTHORITY: KRS 156.035, 156.070
NECESSITY AND FUNCTION: In accordance with the Stewart B. McKinney Homeless Assistance Act of 1987, the Kentucky Department of Education, when applying to the U.S. Department of Education for participation in programs for homeless children under the Act, shall submit an approvable plan and satisfactory assurances that all requirements of the law set forth in 42 U.S.C. Section 11432 shall be met. This regulation implements the State Board for Elementary and Secondary Education's KRS 156.031 and 156.035 duties to develop education policy, to implement acts of Congress appropriating and apportioning funds to the state and to provide for the proper implementation of federal law in accordance with the state's current plan. This regulation sets forth criteria regarding residency policies, the provision of a free, appropriate public education to homeless children, provides informal procedures for resolution of disputes regarding educational placement of homeless children, and provides for an annual count of homeless children. Reconsideration and refiling of this regulation is required by KRS 156.031.

Section 1. Definitions. (1) "Homeless child", "homeless children", "homeless youth", and "homeless student" means a child or children who are between the ages of five (5) and twenty-one (21) inclusive and who are:
(a) Living with their families in hotels, motels, public or private shelters, parks or campgrounds, or other temporary living arrangements due to the lack of a fixed, regular and adequate residence;
(b) Residing in special care homes such as runaway shelters or spouse abuse centers due to the lack of a fixed, regular and adequate residence;
(c) Placed by parents under the care of relatives or nonrelatives due to the homeless situation of the family or due to their impoverished condition which causes the family to be living separately from one another;
(d) Sleeping in a public or private place not ordinarily used as a regular sleeping accommodation for human beings; or
(e) Awaiting assistance from social service agencies in a hospital or a temporary placement facility due to being abandoned or forced out of the home by parents or other caretakers.
(2) Such homeless children shall not include any individual imprisoned or otherwise detained by act of Congress or a state law. Nor shall a child be classified as "homeless" to circumvent state law and regulations which:
(a) Prohibit the attempted enrollment of nonresident students for the express purposes of obtaining school accommodations and services without the payment of tuition to the nonresident school district or for the purpose of obtaining specific programs not available in the school of residence; or
(b) Regulate interschool athletic recruiting by the Kentucky High School Athletic Association.
(3) "Free, appropriate public education" means the educational programs and services that are provided the children of a resident of a state, and that are consistent with state school attendance laws. It includes educational services for which the child meets the eligibility criteria, such as compensatory education programs for the disadvantaged, and educational programs for the handicapped and for students with limited English proficiency; programs in vocational education, programs for the gifted and talented; and school meals programs.

Section 2. Criteria for Program Implementation. Homeless children or homeless

youth who reside within the boundaries of a local school district shall be provided a free, appropriate public education. Programs for homeless children and youth shall be provided in a timely fashion and shall be ensured by the following actions:

(1) Each local district shall designate a person in the district to be a homeless child education coordinator and shall submit the name of the person to the Kentucky Department of Education. The coordinator's responsibilities shall be to:

(a) Obtain all necessary records of each homeless student identified as living within the boundaries of the school district and place the student in appropriate programs within two (2) school days of the student's appearance in the district. In cases where records are not readily available, the coordinator shall contact the school district(s) of last attendance for verbal confirmation of essential information. The coordinator shall assist the homeless student to obtain essential records which are not in existence in order that enrollment shall not be delayed or denied;

(b) Receive and resolve any requests for resolution of disputes related to the educational placement of homeless students within the district. The coordinator shall provide the necessary information to the Department of Education for final resolution whenever such a request is received and is not resolved;

(c) Assist the homeless student to obtain the appropriate program and services, including transportation; and

(d) Develop procedures to ensure that homeless student records are readily available upon request by a new receiving school district.

Section 3. Residency. The school district of residence is the district in which the homeless student physically resides with his or her parent or legal custodian, unless by reason of marriage, emancipation, or basic physical necessity the child resides elsewhere. The school district of residence shall ensure that:

(1) The homeless student is enrolled in the district in which he or she is physically located or that the homeless student's education is continued in the school district of origin for the remainder of the school year, whichever is in the best interest of the homeless student.

(2) A homeless student shall not be denied enrollment in the school district of residence due to the absence of a parent or a court-appointed guardian or custodian. Such a homeless student shall be enrolled and provided educational services until such time that the school district can substantiate that the enrollment is contrary to Section 1(2) of this regulation.

(3) In the absence of a parent, and a court-appointed custodian or guardian, any medical, dental and other health services may be rendered to a homeless student who is a minor of any age when, in the judgment of the school principal or other professional that the risk to the minor's health is of such a nature that treatment should be given without delay and the requirements of consent would result in delay or denial of treatment as stated in KRS 214.185(3)(4).

(4) No policy of the school district shall delay or deny the timely provision of educational placement and appropriate services to the homeless student, including policies related to guardianship issues.

Section 4. Resolution of Disputes. Disputes arising between or among the school district of residency; another school district; and the parent, homeless youth, or person in parental relationship to the homeless student regarding the school district in which the child shall attend school or the educational placement of the homeless student shall be resolved through the following procedures:

(1) The school district's homeless child education coordinator shall inform the representative of the homeless student of the right to an informal hearing with the school district(s) when a dispute arises about the placement of the homeless student. The coordinator shall assist the representative to complete a written request for the hearing which shall be based on a placement that was initiated, or declined to be initiated, by the school district not more than two (2) school weeks prior to the request.

(2) The informal hearing shall be scheduled within two (2) days of the written request and shall be convenient to the needs of the representative of the homeless student.

(3) During the hearing, the school district(s) shall discuss any considerations that led to the placement decision which may include the ability of the school district to provide continuity in educational programs, the need of the homeless student for special instructional programs, the amount of time and arrangements required to transport the student to the original school district, the age of the homeless student and the school placement of siblings, and the time remaining until the end of the semester or the end of the school year.

(4) In cases where an agreement cannot be reached among all involved parties, either party may request the assistance of the state homeless children education coordinator. Upon written request, the coordinator shall meet with the involved parties to discuss available alternatives and seek to resolve the dispute.

(5) In cases of such a request for the assistance of the state coordinator, the school district of residence shall inform the Kentucky Department of Education and shall provide sufficient information as required.

(6) The placement and services for the homeless student shall be continued pending the resolution of the dispute by the Department of Education.

Section 5. Annual Count. The Department of Education shall annually conduct a count of all homeless children and youth in the state as follows:

(1) Survey instruments shall be distributed to local school districts, related social agencies, and appropriate service providers according to the required time lines set by the U.S. Department of Education.

(2) Local school districts, social agencies, and service providers shall return the completed forms to the Department of Education according to the time lines provided.

(3) The Department of Education shall develop procedures as required to ensure that the homeless child count is accurate and verifiable.

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: November 14, 1990

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

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: Joanne Brooks/Carole Kruse

(1) Type and number of entities affected: All LEAs and homeless families with school-aged children.

(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: Each school district must participate in an annual count of homeless children and youth.

(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: Report of an annual count to USDE annually; a state plan.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: Federal law requires policies and impartial hearing procedures.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: KRS 158.035, Certification of Immunization OAG 79-420 Possible Grace Period for Immunization.

(a) Necessity of proposed regulation if in conflict: Many homeless families cannot retain essential records and need assistance to gain them.

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? No

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Title VII, Subtitle B of the Stewart B. McKinney Homeless Assistance Act, PL 100-77, Section 722(e).
2. State compliance standards. Provide state policies in regard to federal mandates.
3. Minimum or uniform standards contained in the federal mandate. Submit state plan; comply with regulations under PL 100-77, Section 722(c).
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? Yes, these regulations require that a homeless children education coordinator be assigned at the local level to assist homeless students to be enrolled and to ensure that a free, appropriate public education is provided.
5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The federal mandate provides requirements that could not be met without a staff member at the local level to oversee their implementation.

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

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

RELATES TO: KRS 156.031, 156.160

STATUTORY AUTHORITY: KRS 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 KRS 156.160 mandates that the State Board for Elementary and Secondary Education adopt administrative regulations with respect to the courses of study for the different grades [determine the scope of instruction] in the common schools. This regulation establishes procedures for seeking State Board of Education approval for courses that are not listed in the "Program of Studies for Kentucky Schools, K-12."

Section 1. Any school desiring to offer a course not listed in the "Program of Studies for Kentucky Schools, K-12", as adopted in 704 KAR 3:304, shall secure the approval of the State Board of Education upon recommendation of the chief state school officer [Superintendent of Public Instruction] before such a course is offered. Failure to secure state board approval

before the course is initiated shall result in the course not being recognized for graduation credit. No course shall be considered for approval that is inconsistent with Kentucky Administrative Regulations, Kentucky Revised Statutes, or the Constitution of the Commonwealth of Kentucky. Any school implementing an experimental program or enrichment course hereunder shall notify the State Department of Education when the program or course is terminated.

Section 2. (1) The procedure for seeking approval of an experimental program or enrichment course shall be as follows: the superintendent of a county or independent school district or the administrative head of a[n accredited] nonpublic school voluntarily complying with state board curriculum standards and seeking permission to offer an unlisted course shall notify the head of the Bureau of Instruction in writing no later than May 31 when requesting approval for a program beginning the first semester and September 30 when requesting approval for a program beginning the second semester. The application shall contain the following information:

(a) [(1)] The name or title of the program or course;

(b) [(2)] A statement indicating need for the course;

(c) [(3)] A statement of the objectives of the course;

(d) [(4)] A brief description of the scope and content of the course;

(e) [(5)] A statement describing adequacy of staff, facilities, equipment, and materials for implementing the course;

(f) [(6)] A description of deviation from the "Program of Studies for Kentucky Schools, K-12;"

(g) [(7)] The amount of credit to be allowed for the course or the extent of grade levels involved in the proposed offering;

(h) [(8)] Proposed method of evaluation; and

(i) [(9)] Anticipated length of experiment. [;]

(2) [(10)] A written evaluation of any approved experimental program or enrichment course shall be submitted to the head of the Bureau of Instruction at the close of the school year.

Section 3. The chief state school officer [Superintendent of Public Instruction] shall submit the request to the State Board of Education, accompanied by his recommendation. Following action of the State Board of Education, local school districts or [accredited] nonpublic schools having submitted a request to offer an experimental program or enrichment course shall be notified in writing within ten (10) days of the board decision.

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: November 14, 1990

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

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: Lay Freeland

(1) Type and number of entities affected: 176 school districts.

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

1. First year: No change.

2. Continuing costs or savings: No change.

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

(b) Reporting and paperwork requirements: Paperwork requirements remain.

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

(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:

(b) Reporting and paperwork requirements: Remain the same.

(3) Assessment of anticipated effect on state and local revenues: No effect.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Amendment needed to comply with KRS 156.031.

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments:

TIERING: Was tiering applied? No. The regulation is applied equally to all districts.

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

705 KAR 2:120. Distribution of funds for local operation of area vocational education centers and local vocational departments.

RELATES TO: KRS 156.031, 156.035[, 163.030]
STATUTORY AUTHORITY: KRS 156.031, 156.035, 156.070[, 163.030]
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; and KRS 156.035(2) authorizes the State Board for Elementary and Secondary [Adult, Vocational] Education [and Vocational Rehabilitation] to provide for the proper disbursement of state funds for the benefit of programs under its control and management[; and KRS 163.030 authorizes such board to carry out the purposes of the state's vocational education program]. This regulation establishes a procedure for distribution of appropriated funds to local school districts operating area vocational education centers and local vocational education departments.

Section 1. The funds appropriated by the General Assembly to support locally operated vocational education departments and centers shall be distributed to the local districts by formula.

Section 2. All funds shall be distributed according to the following basic formula. Funds shall be allotted on a per teacher basis for each approved vocational teacher in the previous school year. The local district shall receive $21,000 per teacher for one (1) to five (5) teachers, except that the amount shall vary according to the total funds available; $16,000 per teacher for six (6) to nine (9) teachers; and $10,000 per teacher for ten (10) or more teachers. In the event the biennial appropriation is increased or decreased, the formula shall be adjusted proportionately.

Section 3. Approved teacher count per school shall:
(1) Include all teachers in the school if the number is five (5) or less.
(2) Consist, for those schools above five (5) teachers, of those qualified, approvable teachers included in the actual vocational facility. The teachers counted shall include the following:
(a) All Industrial Education Level III, marketing [distributive] education and health services teachers;
(b) Only those agriculture teachers in full-time horticulture or agricultural mechanics programs;
(c) Only those home economics teachers in full-time gainful home economics programs such as child care and commercial foods;
(d) Only business education teachers not to exceed three (3) after subtracting two (2) from the total number of business teachers in the home high school unless enrollments from multiple high schools require duplication of advanced course offerings. In such cases, up to an additional two (2) teachers may be added when the local vocational center has enrollees from three (3) or more home high schools; and
(e) Only those special vocational teachers in developmental occupational programs.

Section 4. Districts receiving this supplemental funding shall have a plan to provide supervision by a qualified vocational education administrator.

Section 5. Those formerly state operated area vocational education centers which have become locally operated since 1980 shall have a contract of agreement equal to the amount of the funds calculated for the districts specified in Section 1 of this regulation, except that no district shall receive less than the amount received in 1990-91 unless the number of programs are reduced, in which case funds shall be reduced proportionately [1986-87 for basic contract and twenty (20) percent capital outlay funds]. Other districts agreeing to local control shall [will] receive the amount provided for the districts specified in Section 1 of this regulation.

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: November 14, 1990
FILED WITH LRC: November 15, 1990 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: Melissa Briscoe
(1) Type and number of entities affected: 176 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: 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: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: The provisions of the KERA mandates the changes set forth in these amendments for all school districts.
TIERING: Was tiering applied? No. This regulation applies equally to all school districts.

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

705 KAR 4:040. Cooperative program standards.

RELATES TO: KRS 151B.025, 156.031 [156.112, 163.020, 163.030]
STATUTORY AUTHORITY: KRS 156.031, 156.070 [156.112, 163.030]
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; and KRS 151B.025 retains with the State Board for Elementary and Secondary Education the authority to prescribe program standard for area vocational education centers. [KRS 156.112 gives the State Board of Education the function and authority to develop and adopt policies and regulations by which the Department for Occupational Education is to be governed in planning, coordinating, administering, supervising, operating, and evaluating occupational education programs, services, and activities; and KRS 163.020 and 163.030 mandate a state vocational education program with certain purposes.] This regulation establishes program standards for cooperative vocational education in area vocational education centers and local school districts.

Section 1. Cooperative vocational education shall meet the following minimum requirements:
(1) Enrollees shall [must] be at least sixteen (16) years of age and if below eighteen (18) they shall [must] secure a verification of age [work permit] issued by the local superintendent of schools. Students from eighteen (18) to twenty-one (21) years of age shall have a certificate of age on file with the employer.
(2) Enrollees shall have taken basic skill prerequisites required by the occupational program they are pursuing. Students in business education [and office] shall have completed two (2) business classes and shall be completing the requirements for a business education DOT [and office cluster]. [The] Students in gainful home economics occupations shall have completed at least one (1) semester of the program.
(3) A student in cooperative education shall be enrolled in a related class under the direction of the teacher-coordinator. The student shall receive minimum classroom instruction equivalent to five (5) hours per week.
(4) The student shall spend a minimum of fifteen (15) clock hours per week in a salaried position which provides work experience directly related to the student's educational program. (Exceptions: students in gainful home economics occupations may spend a minimum of ten (10) clock hours per week. Students in industrial education shall spend time on the job equal to that time spent in school on an alternate or rotating basis.)
(5) The student shall be paid in accordance with local, state, and federal minimum wage requirements.
(6) A training agreement [and training] plan between school, student, and the employer shall be on file for each student.
(7) The teacher-coordinator shall receive at least one (1) class period during the regular school day for supervision of students, based on the enrollment in the program.

Section 2. Cooperative teacher-coordinators shall meet the following requirements:
(1) Hold a teaching certificate designated for a teacher in an occupational program area in which the teacher-coordinator [he/she] is coordinating cooperative vocational education experiences.
(2) Have a minimum of two (2) years teaching experience in an occupational program area. (Exceptions: Agricultural, marketing [distributive] education and special vocational education teacher-coordinators shall not be required to have prior teaching experience. Teacher-coordinators of industrial cooperative programs who are graduates of an approved associate degree or bachelor's degree program may be certified without prior teaching experience. Home economics teacher-coordinators shall meet certification requirements for gainful home economics teachers. Teachers of cooperative work experience programs for special vocational programs shall have 2000 hours of paid work experience, with such work experience to be approved by the chief state school officer.) [as stated in the "Kentucky State Plan for the Administration of Vocational Education."]

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: November 14, 1990
FILED WITH LRC: November 15, 1990 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: Melissa Briscoe
(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: 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: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: The provisions of the KERA mandates the changes set forth in these amendments for all school districts.
TIERING: Was tiering applied? No. This regulation applies equally to all districts.

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

705 KAR 4:050. Work experience program standards.

RELATES TO: KRS 151B.025, 156.031 [156.070, 163.030]
STATUTORY AUTHORITY: KRS 156.031, 156.070 [Chapter 13A]
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 KRS 151B.025 retains with the State Board for Elementary and Secondary Education the authority to prescribe program standards for area vocational education centers. This regulation [To] establishes program standards for work experience programs in area vocational education centers and local school districts.

Section 1. Supervised work experience, when feasible, shall be a program component for students enrolled in special vocational education programs. Such classes shall be organized through cooperative agreements between the school and the employer or institution providing on-the-job learning experience. Such arrangements shall provide for:
(1) Conformity with federal, state, and local labor regulations for the prevention of exploitation of students for private gain.
(2) An organized program of on-the-job training for each student.
(3) Supplemental related vocational instruction.

Section 2. Work experience programs shall be:
(1) Appropriate to the student's vocational objective.
(2) Of sufficient duration to develop competencies to prepare students for employment in their selected occupational fields.
(3) Supervised by a member of the school staff who is approved as special vocational teacher. [qualified under the "Kentucky State Plan for the Administration of Vocational Education."]

Section 3. Minimum standards for a work experience program in special vocational education shall be:
(1) Enrollees shall be at least fourteen (14) years of age and, if below eighteen (18), shall secure a verification of age [work permit] issued by the local superintendent of schools. Students from eighteen (18) to twenty-one (21) years of age shall have a certificate of age on file with the employer.
(2) Students shall be enrolled in an approved special vocational education class under the direction of the teacher-coordinator.
(3) The student shall spend a minimum of fifteen (15) clock hours per week and shall receive payment for his work.
(4) The student shall be paid a fair wage in compliance with local, state, and federal minimum wage requirements.
(5) A training agreement between the school and the employer shall be on file for each student.

Section 4. An approved simulated work experience class shall be substituted for the on-the-job work experience in situations where actual on-the-job work experience is not possible or practical.

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: November 14, 1990

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

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: Melissa Briscoe

(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: 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: N/A

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: The provisions of the KERA mandates the changes set forth in these amendments for all school districts.

TIERING: Was tiering applied? No. This regulation applies equally to all school districts.

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

705 KAR 4:080. FFA leadership training center.

RELATES TO: KRS 151B.025, 156.031 [156.112, 163.020, 163.030]

STATUTORY AUTHORITY: KRS 156.031, 156.070 [156.112, 163.030]

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; and KRS 151B.025 retains with the State Board for Elementary and Secondary Education the authority to prescribe program standards for area vocational education centers. [KRS 156.112 gives the State Board of Education the function and authority to develop and adopt policies and regulations by which the Department for Occupational Education is to be governed in planning, coordinating, administering, supervising, operating, and evaluating occupational education programs, services, and activities; and KRS 163.020 and 163.030 mandate a state vocational education program with certain purposes.] This regulation establishes procedures for operating and maintaining the Kentucky Future Farmers of America Leadership Training Center.

Section 1. The Kentucky FFA Leadership Training Center at Hardinsburg shall be operated and maintained as a definite part of the state program of agribusiness education. The center shall provide training in leadership and citizenship development for youth.

Section 2. The chief state school officer [Superintendent of Public Instruction] shall have general responsibility for the management and control of the center. The director of the center shall be an agribusiness education supervisor who is a member of the [on the] staff in the [agribusiness education in the Program Development Division, Office of Vocational Education,] Department of Education. The facilities shall be maintained by fees collected from members of the Kentucky Association of Future Farmers of America, by funds budgeted by the Department of Education [Office of Vocational Education], and by fees charged other groups using the center. The facilities shall be used by the members of the Kentucky Association FFA and other vocational education youth organizations for leadership training and recreation. When not used for vocational education purposes, the facility shall be [is]

available for use by other educational and farm organizations.

Section 3. The chief state school officer [Superintendent of Public Instruction] shall appoint an advisory committee whose duty it shall be to advise [with] the director of agribusiness education and the director of the Leadership Training Center regarding the operation of the center. The advisory committee shall be composed of a representative from the Agribusiness Education Unit, a representative from the teacher education staff in agribusiness education, two (2) teachers of vocational agriculture, and the president of the Kentucky Association of Future Farmers of America. The executive secretary of the Kentucky Association of Future Farmers of America shall be chairman of the advisory committee without a vote, and the director of the center shall serve as secretary without a vote.

Section 4. The director of the center shall, with the approval of the director of agribusiness education and with the advice of the advisory committee, schedule the use of the facilities and develop procedures for its operation in line with the objectives of the program. [Fees for room and meals shall be established by the director of agribusiness education after consultation with the director of the center and the advisory committee. These rates shall be submitted for approval by the Superintendent of Public Instruction.]

Section 5. The director of the center and other full and part-time employees shall be employed by the chief state school officer [Superintendent of Public Instruction in accordance with established policies of the State Board of Education]. Purchases of supplies, equipment, food, soft drinks, maintenance items, repairs to equipment, capital outlay items, and other reoccurring purchases shall be made in accordance with administrative regulations [policies] of the State Board for Elementary and Secondary [of] Education and applicable state statutes and budget appropriations.

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: November 14, 1990

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

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: Melissa Briscoe

(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: 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: N/A

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: The provisions of the KERA mandates the changes set forth in these amendments for all school districts.

TIERING: Was tiering applied? No. This regulations applies equally to all school districts.

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

707 KAR 1:060. Identification, evaluation and placement policy and procedure.

RELATES TO: KRS 156.031, 156.035, 157.200 to 157.290, 20 USC §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 and apportioning funds to the state; and KRS 157.200 to 157.240 establish[es] the state's statutory framework for special education programs. This regulation establishes policies and procedures to assure that each child, parents and the local school districts will be guaranteed procedural safeguards relative to the identification, evaluation and placement of exceptional children, in compliance with 20 U.S.C. §1415 [and 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. The "Due Process Policy and Procedure Manual, November, 1990 [July, 1988]," a copy of which is attached hereto and filed by reference, is hereby approved. This manual fulfills requirements [of the Consent Agreement, Civil Action No. 435, and] 20 U.S.C. § 1415, and shall be referred to as the "Due Process Policy and Procedure Manual," for identification, evaluation and placement of exceptional children. Copies may be inspected, copied, and obtained from the Office of Education for Exceptional Children, State Department of Education, 8th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, 8 a.m to 4:30 p.m., Monday through Friday.

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: November 14, 1990
FILED WITH LRC: November 15, 1990 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: 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: 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 300.500-589
2. State compliance standards. 707 KAR 1:060
3. Minimum or uniform standards contained in the federal mandate. Above cited federal regulations provide for a system of procedural safeguards, including a hearing process for parents of handicapped students. The state regulation outlines how the state implements this mandate.
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No
5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.

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

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

RELATES TO: KRS 156.031, 167.150, 167.170
STATUTORY AUTHORITY: KRS 156.070, 167.150
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 167.150 authorizes the State Board for Elementary and Secondary Education, upon recommendation of the chief state school officer [Superintendent of Public Instruction], to prescribe curriculum and rules for the government and discipline of pupils who attend the Kentucky School for the Deaf; and KRS 167.170 gives the State Board the power of expulsion from that school. This regulation implements such authority by prescribing the "Kentucky School for the Deaf Student Code of Conduct."

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

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: November 14, 1990
FILED WITH LRC: November 15, 1990 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: 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: 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 forh in these amendments for all local school districts.

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

707 KAR 1:100. Kentucky School for the Deaf; admission policy.

RELATES TO: KRS 156.031, 167.150
STATUTORY AUTHORITY: KRS 156.070, 167.150
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 KRS 167.150 authorizes the State Board for Elementary and Secondary [of] Education, upon recommendation of the chief state school officer [Superintendent of Public Instruction], to prescribe admission policies for pupils to attend the Kentucky School for the Deaf. This regulation implements that function.

Section 1. Statement of Purpose. The educational programs at the Kentucky School for the Deaf (KSD) are designed to provide a variety of educational placements for hearing impaired children. KSD's goal is to provide a comprehensive educational program that includes college preparatory courses and vocational instruction that meets the State Board for Elementary and Secondary [of] Education Program of Studies requirements. Additionally, a developmental program, educational program and a prevocational work experience program are available for lower functioning deaf students to prepare them for independent or semi-independent living and to qualify them for employment, vocational training or placement in a sheltered workshop.

Section 2. Referral Procedures. An application form for admission shall [should] be requested

from KSD. Prospective students may be referred for evaluation by parents or legal guardians or by local school districts or other agencies in cooperation with the student's parents. (Determinations regarding placement of the child shall be made in accordance with procedures outlined in [707 KAR 1:003 and] 707 KAR 1:051.) Available written reports on prospective students shall be [are] requested and obtained for review by KSD's Child Study Center prior to scheduling of the preadmission evaluation of the child. These reports may include, but are not limited to, the following areas and are a part of the Intake History:

(1) Educational history to include reports from programs attended previously.

(2) Detailed family history to include medical, developmental, social and behavioral history of the child.

(3) Audiological evaluation.

(4) Psychological evaluation.

(5) Communication evaluation to include formal and informal data relative to expressive and receptive language (gestures, sign language, reading, writing), speech evaluation and any other pertinent information relating to the child's communication functioning level.

(6) Complete physical examination to include:

(a) Physical development;

(b) Digestive [and/]or intestinal difficulties, as indicated;

(c) Neurological information;

(d) Seizure history and expectation;

(e) Medications;

(f) Bowel and bladder;

(g) Cardiac information and history;

(h) Hereditary problems;

(i) Visual screening; and

(j) Mobility.

Section 3. Initial Evaluation Procedures. (1) Upon receipt of the completed application form which includes parental permission to evaluate the child, KSD personnel shall [will] review the application form and existing information and begin scheduling for the necessary assessments. Each child who comes to KSD for evaluation shall [must] be accompanied by a parent or guardian or a social worker or local school district representative. Depending upon the extent of the available assessment information, the assessment period at the school may range from one (1) day to several weeks.

(2) The individual assessment, to include but not be limited to educational and psychological testing, shall [will] be administered in the child's native language or other nondiscriminatory mode.

(3) Informal and formal observation techniques shall [will] play a major role in the assessment procedure. The evaluation may include participation in leisure time activities, meals, and adaptation to a residence in the appropriate dormitory.

(4) At the conclusion of the evaluation period, a multidisciplinary review of all the assessment information shall [will] be conducted by KSD to determine eligibility of the child according to Section 4 of this regulation.

Section 4. Eligibility Criteria for Admissions. (1) The primary sensory handicap of the student shall [must] be deafness. Admission to KSD shall be provided tuition-free to Kentucky residents, and Kentucky residents shall be given first consideration for any available openings at the school. Out-of-state students shall be eligible for admission after qualified Kentucky residents are accepted, and tuition fees for those students shall be determined by the State Board for Elementary and Secondary [of] Education, pursuant to KRS 167.150.

(2) The student shall [must] fall in the age range between five (5) and twenty (20) years inclusive.

(3) The prospective student shall [must] possess a hearing impairment which is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification, and which adversely affects educational performance. A concomitant handicapping condition shall [will] not exclude the individual; however, hearing impairment shall [must] be the primary handicapping condition.

(4) The prospective student shall [must] meet the following criteria as related to intellectual functioning and adaptive behavior:

(a) Be able to adjust socially and psychologically to the school environment, presenting no deficits in adaptive behavior which would interfere with either the student's or other student's educational endeavors.

(b) On a standardized instrument for the evaluation of intellectual functioning, achieve at the educable mentally handicapped (as defined in 707 KAR 1:057) level or above. In the event it is not possible to determine a child's level of intellectual functioning and level of adaptive behavior due to his inability to carry out the tasks presented during psychological testing and educational evaluation, the student may be accepted for a trial placement.

(c) Exhibit the following prerequisites: Be schedule-trained in toileting; accept solid foods; be able to spoon feed and drink from a cup; need minimal assistance in bathing, dressing, and grooming; express his/her needs through natural gestures, signs, vocalizations; show a differential reaction to a familiar adult and accept stimulation; and walk or move independently about the school in a wheelchair.

(d) Process sufficient visual acuity to enable him or [/] her to utilize visual stimuli found in classrooms for the deaf.

(5) Children with significant medical problems shall [can] not be considered for admission to the residential program. Significant health problems shall [may] include, but are not limited to, planned hospitalization for twenty (20) days or more during an academic year, chronic moderate to severe respiratory difficulties, semiconsciousness [and/]or the requirements of sustained medical support services beyond the capability of the school's infirmary. Prospective students, also, shall [must] not require skilled nursing care.

(6) Once a determination of eligibility has been made by KSD's multidisciplinary evaluation team, written notification of eligibility status shall be sent to the parents, local education agency or referral source within fifteen (15) days. If the child is found to be ineligible for enrollment or if the child is accepted for enrollment despite questions as to whether he or she fully meets each and every individual admission criteria, the notification shall include a description of the eligibility criteria, a description of the basis in the evaluation information for making the

determination, or entertaining any doubt as to fully meeting any individual admission criterion, and a description of other factors (including the feasibility of reasonable accommodation) involved in the eligibility determination. The notification shall also contain:

(a) A statement of the skills needed by the child in order to be considered for eligibility, or to remain eligible, in the future; and

(b) A description of the outreach services that may be provided for the child while being maintained in a local school district program if requested by the LEA.

Section 5. Placement. If a student is determined eligible for admission to KSD, educational placement within the school shall [will] be determined by each child's Individualized Education Plan as developed by KSD, local school districts and the parents or guardians pursuant to 707 KAR 1:051.

Section 6. Change of Placement. A placement review may be initiated to determine if continued placement in KSD in appropriate. Review procedures shall be in accordance with the admission and release committee process as set forth in 707 KAR 1:051. Situations which lead to a review of placement may include, but are not limited to, the following:

(1) A change of circumstances which makes local school district placement appropriate.

(2) Destructive or physically aggressive or other unacceptable behavior that threatens the safety or well-being of the child or others and that cannot be brought under control through the use of behavior modification or medication.

(3) Inability to respond to developmental training as prescribed by the child's Individualized Education Plan (self-care, including feeding, dressing, personal hygiene).

(4) Failure after a reasonable period to make minimum progress toward behavioral or educational (i.e., self-help, language, gross and fine motor, cognitive, social and [/] emotional) objectives that have been established for the child in his or [/] her Individualized Education Plan.

(5) Development of significant medical problems as described in Section 4(4) of this regulation.

(6) Deviant sexual behavior that has an adverse influence on the sexual behavior of other children.

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: November 14, 1990

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

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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.

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

707 KAR 1:110. Kentucky School for the Blind; admission policies.

RELATES TO: KRS 156.031, 167.150, 20 U.S.C. §1415

STATUTORY AUTHORITY: KRS [156.070,] 167.150

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 167.150 authorizes the State Board for Elementary and Secondary [of] Education, upon recommendation of the chief state school officer [Superintendent of Public Instruction], to prescribe admission policies for pupils to attend the Kentucky School for the Blind; and 20 U.S.C. §1415 mandates administrative procedural safeguards with respect to complaints in regard to the provision of a free appropriate public education. This regulation implements that function of prescribing admission criteria and providing for any legally required administrative review of admission decisions by KSB.

Section 1. Statement of Purpose. The educational programs at the Kentucky School for the Blind (KSB) are designed to meet the educational needs of blind and visually impaired students. Special emphasis is placed on meeting the needs of students in relation to their visual impairments. Specialized materials, techniques, and aids are used to teach academic subjects, as well as courses needed for well-rounded development, including career-vocational education, music, physical education, orientation and mobility, daily living and recreation and leisure skills. The overall program is planned to develop each child's ability for living independently. Counseling, off-campus programs, athletic programs, and student organizations give experiences which help develop the confidence and skills needed to deal with a variety of social situations.

Section 2. Referral Procedures. Inquiries concerning services of KSB for prospective students may come to the school from parents, legal guardians, agency personnel and other interested people; however referrals are only made through local school districts. Subsequent to the initial referral, determinations regarding placement of the child shall be made in accordance with procedures outlined in 707 KAR 1:003 and 707 KAR 1:051. Available written reports on prospective students shall be [are] requested for review by KSB's multidisciplinary evaluation team prior to scheduling of the initial evaluation of the child. These reports shall be [are] a part of the intake procedure and may include but are not limited to the following areas:

(1) Educational history to include reports from programs attended previously.
(2) Family history to include medical, developmental, social and behavioral history of the child.
(3) Ophthalmological or optometric evaluation.
(4) Psychological evaluation.
(5) Audiological, speech, language evaluation.
(6) Complete physical examination to include:
(a) Physical development;
(b) Digestive or intestinal difficulties, as indicated;
(c) Neurological information;
(d) Seizure history and prognosis;
(e) Medications;
(f) Bowel and bladder difficulties;
(g) Cardiac history and prognosis;
(h) Hereditary problems; and
(i) Orthopedic evaluation as indicated.

Section 3. Eligibility and Criteria for Admission. Admission shall be [is] determined by the following eligibility criteria:

(1) The primary sensory handicap of the student shall be visual impairment. Attendance at KSB shall be [is] provided tuition-free to Kentucky residents, and Kentucky residents shall [will] be given first consideration for any available openings at the school. Out-of-state students shall be eligible for admission, and tuition fees for those students shall be determined by the State Board for Elementary and Secondary [of] Education, pursuant to KRS 167.150.

(2) The student shall be between five (5) and twenty (20) years of age inclusive.

(3) The prospective student shall possess a visual impairment, after correction, which is so severe that the child's educational performance is adversely affected, resulting in the need for the specialized instructional materials, aids, and techniques which are offered by KSB in order to succeed in an educational program. A concomitant handicapping condition shall not exclude the individual, however, visual impairment must be the primary handicapping condition.

(4) The prospective student shall meet the following criteria as related to intellectual functioning and adaptive behavior:

(a) Be able to adjust socially and psychologically to the school environment, presenting no deficits in social competence which, even with modifications and adaptations, would continue to significantly interfere with either the student's or other students' educational endeavors.

(b) Demonstrate ability for academic and vocational learning from programs available at KSB, as ascertained from a variety of sources, including but not limited to individual intellectual assessment, individual educational assessment of basic skills, behavior observations, assessment of adaptive behaviors, developmental and social history, vocational and prevocational assessments, and medical information, as appropriate. If a prospective student does not demonstrate ability for academic and vocational learning, self-care, and independent functioning, or if extensive medical care shall [will] be required, the student will not be deemed eligible for acceptance into KSB.

(c) Exhibit the following basic prerequisite skills: schedule trained in toileting; acceptance of solid foods; ability to spoon feed and drink from a cup; need for minimal assistance in bathing, dressing, and grooming; and expression of his or her needs through speech or other appropriate modes of communication.

(5) Children with significant medical problems which are beyond the capability of the school's health center shall not [cannot] be considered for admission to KSB.

(6) Children with orthopedic involvement shall [must] require no more than minimum assistance in making transfers or moving about using orthopedic aids, including wheelchairs, braces, and walkers. These children shall [will] be evaluated individually to determine their ability to function adequately within KSB.

Section 4. Initial Evaluation Procedures. The procedures shall be [are] as follows:

(1) Upon receipt of the completed intake information which includes signed parental permission to evaluate the child and to release information to KSB, KSB personnel shall [will] review the existing information and begin scheduling for the necessary assessments. Each child who comes to KSB for evaluation shall [must] be accompanied by a parent or guardian or by a social worker or local school district representative. Depending upon the extent of the available assessment information, the initial assessment period at the school may range from one (1) to three (3) days.

(2) The individual assessment shall be conducted by a multidisciplinary evaluation team; shall be administered in the child's native language or other nondiscriminatory mode; and shall include, but not necessarily be limited to the following, which may include evaluations provided to KSB by the parents, local school district, or other agency which were conducted within one (1) year prior to the current assessment. These assessments may include but are not limited to the following:

(a) Individual standardized norm-referenced or informal criterion-referenced educational assessment of basic skills;

(b) Orientation and mobility skills assessment;

(c) Speech, hearing and language development assessment;

(d) Daily living skills assessment;

(e) Visual functioning assessment;

(f) Gross and fine motor skills assessment;

(g) Informal and formal observations in various areas, such as leisure time activities, meals, classroom activities, and dormitory activities; and

(3) At the conclusion of the evaluation period, the KSB multidisciplinary evaluation team shall review all assessment information to determine eligibility for placement at KSB according to Section 3 of this regulation.

(4) Once a determination of eligibility has been made by KSB's multidisciplinary evaluation team, written notification of eligibility status shall be sent to the parents, local education agency and initial contact person within fifteen (15) days. The notification shall include a description of the eligibility criteria, an item by item determination of whether or not the child has met each of the criteria, a description of the basis in the evaluation information for making the determination, and a description of other factors involved in the eligibility determination. If the child is found to be ineligible for services, the notification shall contain:

(a) A statement of the skills needed by the child in order to be considered for eligibility in the future.

(b) A description of the outreach services that will be recommended for the child while being maintained in a local school district program; and

(c) Notice of the parent's right to request a review of the eligibility determination.

Section 5. Placement. If a student is determined to be eligible for placement at KSB, and Administrative Admissions and Release Committee (AARC), consisting of parents and representatives of the local school district and KSB, shall convene. Pursuant to 707 KAR 1:051, the AARC shall be responsible for the development, implementation and monitoring and evaluation of the student's individual education program (IEP).

Section 6. Early Termination. (1) A review for early termination may be initiated by the parents, local school district or the KSB multidisciplinary evaluation team to determine a student's eligibility for continued placement at KSB. Situations which may lead to review of initial eligibility determination may include, but not limited to the following:

(a) A change of circumstances, e.g., student progress, which makes local school district placement appropriate.

(b) The student fails to meet criteria related to intellectual functioning an adaptive behavior; such as, any of the following:

1. The student's behavior pattern is dangerous to self or others, e.g., continuing destructive, physically or sexually aggressive behavior, and documented evidence indicates efforts to control the behavior through specific behavioral programming or medication have failed.

2. Inability, after systematic implementation and evaluation of the prescribed IEP, to make minimum progress toward behavioral or educational objectives.

(c) Development of significant medical problems as described in Section 3(5) of this regulation.

(2) Once a review for early termination has been completed by the KSB multidisciplinary evaluation team, written notification of eligibility status shall [will] be sent to the parents and local school districts according to procedures outlined in Section 4(4) of this regulation.

Section 7. Change of Placement Within the Agency. (1) All changes of placement within the agency's programs shall meet criteria set forth in 707 KAR 1:051, Section 6.

(2) Any changes in placement within the agency's programs shall follow due process procedures to insure that exceptional children and youth and their parents are guaranteed procedural safeguards in decisions regarding identification, evaluation, and placement including written prior notice requirements as specified in 707 KAR 1:060.

(3) Any change in placement within the agency's programs shall be subject to established admissions and release committee procedures in 707 KAR 1:051, Section 3 and consideration of the least restrictive environment concept.

Section 8. Review of Eligibility Determinations. (1) If a parent of a current or prospective student or a student over the age of eighteen (18) disagrees with the decision of the KSB multidisciplinary evaluation team regarding initial eligibility or early termination, the parent or student may request a review of the eligibility determination.

(2) During the pendency of a review, the student shall [must] remain in his or her present educational placement, unless all parties agree otherwise. If the review involves a student seeking initial admission to KSB, the student, with the consent of the parents, shall be provided a program by the LEA until the completion of all the proceedings.

(3) A written request shall be submitted to the chief state school officer [Superintendent of Public Instruction] within thirty (30) days of receipt of the notification of eligibility status. The request shall include:
(a) The notice of eligibility status;
(b) A letter specifying the areas of disagreement;
(c) The rationale for such; and
(d) Any documentation which the parent or student wishes to be considered.
(4) Upon receipt of the request, the chief state school officer [Superintendent of Public Instruction] shall:
(a) Notify the superintendent of KSB of the request and direct the superintendent of KSB to submit the following:
1. All evaluation information;
2. All documentation utilized in the eligibility determination;
3. Any pertinent explanation of or justification for the eligibility determination; and
4. Any document or other information which the school wishes to have considered.
(b) Appoint an impartial eligibility review panel. The panel shall consist of a due process hearing officer normally assigned by the Department of Education to hearings under 707 KAR 1:060, a parent of a visually impaired child, and a professional educator with expertise in the category of blind or visually impaired. The panel members shall not be employees of the Department of Education or the involved local school district and shall have no vested interests that conflict with the student's educational interests. It is the responsibility of the Department of Education to select, train and maintain a registry of panel members to serve on the eligibility review panel. The Department of Education shall be responsible for the provision of appropriate training to those persons to be selected as panel members.
(5) The eligibility review panel shall have the responsibility of conducting a hearing and recommending in writing to the State Board for Elementary and Secondary [of] Education within sixty (60) days of receipt of the initial request for review, one of the following:
(a) Upholding the decision of KSB's multidisciplinary evaluation team;
(b) Reversing the decision; or
(c) Finding that insufficient evidence was presented upon which to base a determination of eligibility. If the panel finds that insufficient evaluative evidence was presented upon which to base a determination of eligibility, the panel may recommend that the State Board for Elementary and Secondary [of] Education order completed evaluation information to be submitted to it.
(6) Any party to the hearing shall be accorded the right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of handicapped children; the right to present evidence and confront, cross-examine, and compel the attendance of witnesses; the right to a written or electronic verbatim record of such hearing; and the right to written recommended findings of fact and decisions.
(7) The panel shall render a written decision, based solely on the evidence presented to it, with recommended findings of fact and conclusions regarding the eligibility of the involved student, such to be submitted to the State Board for Elementary and Secondary [of] Education for consideration at its next regular meeting or at a special meeting for such purpose.
(8) The State Board for Elementary and Secondary [of] Education shall consider and render a final written decision on the matter, with said decision to include written findings of fact if the recommendation of the eligibility review panel is not adopted.
(9) The decision of the state board is binding on the parties involved for one (1) calendar year.

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: November 14, 1990
FILED WITH LRC: November 15, 1990 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: 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: N/A. No alternative methods were available to insure that the regualtions 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.

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

707 KAR 1:120. Kentucky schools for the blind and deaf; contract teachers service regulation.

RELATES TO: KRS 156.031, 161.152, 161.154, 163.032, 167.015
STATUTORY AUTHORITY: KRS 156.031, 156.070, 161.015
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 163.032 directs that teachers of the Kentucky School for the Blind and Kentucky School for the Deaf shall have the same statutory employment status and benefits as certified teachers in the public schools. KRS 161.152 and 161.154 authorize emergency and personal leave days for local school district teachers; and KRS 167.015 gives the management and control of the schools for the blind and deaf to the State Board for Elementary and Secondary [of] Education. This regulation establishes emergency and personal leave policies which are necessary to fulfill statutory requirements dealing with teacher status of the certified employees of the Kentucky School for the Blind and Kentucky School for the Deaf who are no longer covered by state personnel leave policies.

Section 1. All teachers under contract to teach at the Kentucky School for the Blind and Kentucky School for the Deaf shall be granted three (3) days of emergency leave per year. Said leave will be credited on the initial day of the school year and shall [will] not accumulate from year to year. Emergency leave granted pursuant to request under this regulation shall [will] be granted in units of full days. For the purpose of this section "emergency" shall mean a sudden unexpected happening; an unforeseen occasion or condition; a sudden or unexpected occasion for action. Emergency leave shall be granted upon request for occasions involving the death or funeral of a relative by blood or marriage; emergency situations arising from natural disaster; and such other reasons of emergency of extraordinary nature as approved by the respective superintendents of Kentucky School for the Blind or Kentucky School for the Deaf.

Section 2. All teachers under contract to teach at the Kentucky School for the Blind or Kentucky School for the Deaf shall be credited with three (3) days of personal leave per school year, such to be credited upon the initial day of the school year for use by employees at their sole discretion. Unused personal leave shall accumulate as sick leave. Personal leave shall [will] be granted upon request to employees who request same by notice to the school principal prior to noon of the preceding day for which leave is requested. The principal or superintendent may deny personal leave if the total requests for leave by the teaching staff [would] exceed ten (10) percent of the staff for any one (1) day. Personal leave days shall [will] not be granted for the last five (5) days of the school term.

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: November 14, 1990
FILED WITH LRC: November 15, 1990 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: 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: 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.

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

707 KAR 1:130. Kentucky schools for the blind and deaf; contract teachers appeal and grievance procedures.

RELATES TO: KRS 156.031, 161.790, 161.800, 163.032, 167.015
STATUTORY AUTHORITY: KRS 156.031, 156.070, 167.015 [156.015]
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 163.032 directs that teachers of the Kentucky School for the Blind and Kentucky School for the Deaf shall have the same statutory employment status and benefits as certified teachers in the public schools; KRS 161.790 and 161.800 set forth procedures for termination, suspension, and layoff of local school district teachers and KRS 167.015 gives management and control of the schools for the blind and deaf to the State Board for Elementary and Secondary [of] Education. This regulation establishes due process procedures regarding terms of employment and termination of teachers currently under validly-renewed contracts.

Section 1. (1) Any teacher under validly-renewed contract to teach at the Kentucky School for the Blind or Kentucky School for the Deaf shall be dismissed, suspended, or laid off only in accordance with the standards and procedures set forth in KRS 161.790 and 161.800. All personnel actions involving dispute over work conditions or compensation paid pursuant to adopted salary schedule shall be subject to review by the chief state school officer [Superintendent of Public Instruction] or his designee pursuant to grievance.
(2) Suspension of contract (layoff) for any relevant teacher shall be subject to any constitutionality appropriate pretermination hearing.

Section 2. Grievance review shall be filed with the chief state school officer [Superintendent of Public Instruction] by certified mail. No grievance shall be heard if not filed within thirty (30) days of notice to or discovery by the employee of the personnel action or condition from which the grievance arises.

[Section 3. (1) Dismissal or suspension hearings before the State Board of Education shall be heard by a hearing officer designated by the State Board of Education. Said hearing officer shall be a board member or attorney within the employ of the Department of Education. The hearing officer shall conduct a hearing, preserving testimony by court reporter and present to the full State Board of Education a synopsis of testimony and recommended order concerning said dismissal and suspension. All hearings shall be held within thirty (30) days of service of charges and recommended order shall be presented to the full State Board of Education at its next regularly scheduled meeting following date of hearing. The appointing authority shall bear the burden of proof in all appeals.]
[(2) Suspension of contract (layoff) for any relevant teacher shall be subject to any constitutionally appropriate pretermination hearing.]

Section 3. [4.] Any grievance properly filed with the chief state school officer [Superintendent of Public Instruction] shall be heard within ten (10) days of filing thereof. The chief state school officer [superintendent] or his designee shall conduct a hearing of said grievance and notify all parties of the disposition and resolution thereof within ten (10) days of hearing.

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: November 14, 1990
FILED WITH LRC: November 15, 1990 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you

do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: 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: 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.

CABINET FOR HUMAN RESOURCES
Department for Health Services
(Proposed Amendment)

902 KAR 8:030. Merit system for local health departments.

RELATES TO: KRS 211.170, 212.170(4), 212.870
STATUTORY AUTHORITY: KRS 194.050, 211.090, 212.170(4)
NECESSITY AND FUNCTION: KRS 211.170, 212.170, and 212.870 require the Cabinet for Human Resources to supervise the personnel functions and prescribe merit system standards for local health departments. In addition, 5 CFR Part 900, Intergovernmental Act Programs contains requirements for establishing and maintaining a system of personnel administration on a merit basis as a condition precedent to the receipt of federal funds for the conduct of certain federally funded health programs. The Cabinet for Human Resources is authorized by KRS 194.050 to adopt such rules and regulations as are necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds and as are necessary to cooperate with federal agencies for the proper administration of the cabinet and its programs. The function of this regulation is to incorporate by reference [implement] the merit system rules and regulations [council] for local health departments in accordance with applicable federal and state laws and regulations and KRS 212.170(4).

Section 1. Merit System Rules and Regulations. The Cabinet for Human Resources hereby adopts the publication entitled "Rules and Regulations for the Local Health Departments of Kentucky" as amended to August 29, 1990 by reference, as the merit system requirements for local health departments in Kentucky governing all phases of personnel management, including but not limited to appointments, promotions, examinations, separations, and disciplinary actions.
[Definitions. As used in this regulation:]
[(1) "Council" means the merit system council for local health departments created by this regulation; and]
[(2) "Local health department" means a county, city-county, or district health department created pursuant to KRS Chapter 212 but does not include health departments located in cities of the first class or urban-county health departments.]

[Section 2. Council Membership, Terms, and Meetings. (1) A merit system council is hereby created to serve local health departments. The council shall be composed of five (5) members who shall be appointed by the Secretary for Human Resources upon the recommendation of the Commissioner of the Department for Health Services. The members shall be public-spirited persons of recognized experience in the improvement of public administration, and in the impartial selection of efficient governmental personnel. No member of the council shall be an employee of a local health department or of the Department for Health Services.]
[(2) Members of the council shall serve for a term of three (3) years or until successors have been appointed, except that for members first appointed two (2) members shall be appointed for one (1) year, one (1) member for two (2) years, and two (2) members for three (3) years. A member appointed to fill a vacancy occurring prior to the expiration of the term shall be appointed for the remainder of such term.]
[(3) The council shall elect a chairman from its membership. Regular meetings of the council shall be held at least semiannually. Special meetings of the council may be held upon call of the chairman or the Commissioner of the Department for Health Services.]
[(4) The council shall be attached to the Department for Health Services for administrative and budgetary purposes.]
[(5) A simple majority of the members of the council shall constitute a quorum for the purpose of conducting official business. The council shall adopt procedures for the conduct of its activities.]

[Section 3. Merit System Rules and Regulations. The Cabinet for Human Resources hereby adopts the publication entitled "Rules and Regulations for the Local Health Departments of Kentucky" as amended to July 1, 1988, by reference, as the merit system requirements for local health departments in Kentucky governing all phases of personnel management, including but not limited to appointments, promotions, examinations, separations, and disciplinary actions.]

[Section 4. Summary of Amendment. In relation to Section 3 of this regulation strike the cover page of the Merit System Rules and Regulations for Local Health Departments of Kentucky dated November 20, 1985, and substitute in lieu thereof a new cover page dated July 1, 1988; strike pages 9, 10, and 11 and substitute in lieu thereof new pages 9, 10, 11a, and 11b dated 7/1/88 which clarify the requirements related to the denial of annual increments and allow an increased base pay for local health department employees who are required to regularly be "on-call" and to regularly provide client services on evenings, weekends, and holidays; and strike page 32 and substitute in lieu thereof new page 32 dated 7/1/88 which requires that new ratings be done within ninety (90) days on employees who have received "below requirements" or "inadequate" ratings on Performance Evaluations.]

C. HERNANDEZ, M.D., Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: October 11, 1990
FILED WITH LRC: October 25, 1990 at 3 p.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 27, 1990 at 9 a.m. in the Department for Employment Services Conference Room, located on the second floor of the Cabinet for Human Resources Building. However, this hearing will be cancelled unless interested persons notify the following office in writing by December 22, 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: Robert L. Nelson
(1) Type and number of entities affected: 48 local public health departments. Excluding Louisville-Jefferson and Lexington-Fayette County Health Departments.
(a) Direct and indirect costs or savings to those affected: No significant effect on local health department expenditures.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition): None - not applicable.
(b) Reporting and paperwork requirements:
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: No effect; not applicable.
(4) Assessment of alternative methods; reasons why alternatives were rejected:
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? Yes

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes X No___ (If yes, complete questions 2-4)
2. State what unit, part or division of local government this administrative regulation will affect. Limited to local public health departments; will not affect local government, per se.
3. State the aspect or service of local government to which this administrative regulation relates. Relates to personnel policies/practices in local health departments.
4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation. (See #3 above) Has no effect on local governmental services.
Revenues (+/-):
Expenditures (+/-):
Other Explanation:

REVENUE CABINET
Department of Administrative Services

103 KAR 5:021. Repeal of 103 KAR 5:020 and 103 KAR 5:080.

RELATES TO: KRS 134.370, 136.290, 136.300
STATUTORY AUTHORITY: KRS Chapter 13A, 131.130
NECESSITY AND FUNCTION: Administrative regulations 103 KAR 5:020 and 103 KAR 5:080 are no longer required. Passage of HB 465 by the 1990 General Assembly eliminated the statutory basis for regulation 103 KAR 5:020 by eliminating contract delinquent tax collectors and making the county attorney responsible for collecting delinquent personal property tax bills. Similarly, HB 580 enacted by the 1990 General Assembly eliminated the statutory basis and need for those portions of regulation 103 KAR 5:080 relating to reports required from production credit associations and banks for cooperatives. Other provisions of that bill essentially codified those provisions of the regulation relating to savings and loan associations thus eliminating the need for the regulatory provisions.

Section 1. 103 KAR 5:020, Delinquent tax collector's contract, and 103 KAR 5:080, Savings and loan; production credit; banks for cooperatives, are repealed.

C. EMMETT CALVERT, Secretary
APPROVED BY AGENCY: November 15, 1990
FILED WITH LRC: November 15, 1990 at 10 a.m.
PUBLIC HEARING: A public hearing on this regulation will be held on December 27, 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 December 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: 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: The repeal of regulations 103 KAR 5:020 and 103 KAR 5:080 is necessitated by legislative changes enacted by the 1990 Kentucky General Assembly (HB 465 and HB 580). Approximately ten contract delinquent tax collectors would be affected together with the 120 county attorneys who, due to the legislation, became responsible for collecting delinquent personal property tax bills. Also, three production credit associations and one bank for cooperatives would be affected. Savings and loans are not affected since the regulatory provisions relating to them were incorporated into the statutes.
(a) Direct and indirect costs or savings to those affected: No costs or savings changes for savings and loans. However, production credit associations and banks for cooperatives would no longer be required to file annual reports and would be exempted from the approximate $65,000 in tax they previously paid annually. Contract delinquent tax collectors would save negligible administrative costs associated with filing monthly reports, but would not receive commissions allowed for collections made. In FY 1989-90, such commissions totaled approximately $216,500.
1. First year: No cost or savings changes for savings and loans. However, production credit associations and banks for cooperatives would no longer be required to file annual reports and would be exempted from the approximate $65,000 in tax they previously paid annually. Contract delinquent tax collectors would save negligible administrative costs associated with filing monthly reports, but would not receive commissions allowed for collections made. In FY 1989-90, such commissions totaled approximately $216,500.
2. Continuing costs or savings: No cost or savings changes for savings and loans. However, production credit associations and banks for cooperatives would no longer be required to file annual reports and would be exempted from the approximate $65,000 in tax they previously paid annually. Contract delinquent tax collectors would save negligible administrative costs associated with filing monthly reports, but would not receive commissions allowed for collections made. In FY 1989-90, such commissions totaled approximately $216,500.
3. Additional factors increasing or decreasing costs (note any effects upon competition): No other factors are known which would increase or decrease costs. Eliminating contract delinquent tax collectors will eliminate that phase of the collector's activities. The federal exemption of production credit associations and banks for cooperatives from state taxation will give such financial institutions a small competitive advantage over other financial institutions which remain subject to state taxation.
(b) Reporting and paperwork requirements: The ten contract delinquent tax collectors will no longer be required to file monthly reports with the Revenue Cabinet. Likewise, the three production credit associations and one bank for cooperatives will not be required to file an annual report with the cabinet.
(2) Effects on the promulgating administrative body: The Revenue Cabinet will receive 125 fewer monthly/annual reports resulting in a negligible general administrative workload reduction.
(a) Direct and indirect costs or savings: Less than $1,000 annual savings associated with reduced printing and other administrative costs for monthly/annual taxpayer reports which are no longer required to be produced or processed.
1. First year: Less than $1,000 annual savings associated with reduced printing and other administrative costs for monthly/annual taxpayer

reports which are no longer required to be produced or processed.

2. Continuing costs or savings: Less than $1,000 annual savings associated with reduced printing and other administrative costs for monthly/annual taxpayer reports which are no longer required to be produced or processed.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: The Revenue Cabinet will receive approximately 125 fewer monthly/annual reports for processing and storage.

(3) Assessment of anticipated effect on state and local revenues: A net annual tax loss of approximately $65,000 will result from the exemption of production credit associations and banks for cooperatives. There should be no impact from the elimination of contract delinquent tax collectors.

(4) Assessment of alternative methods; reasons why alternatives were rejected: None. Continuation of the regulations to be repealed would place their provisions in conflict with 1990 Kentucky legislation, federal law and/or duplicate provisions of Kentucky law as amended in 1990 by HB 465 and HB 580.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: The regulations to be repealed conflict, overlap or duplicate the provisions of KRS 134.370, 136.290 or 136.300 as amended.

(a) Necessity of proposed regulation if in conflict: This repeal action eliminates the conflict, overlap or duplication identified in (5) above.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: No. The applicable statutes, as amended, left no alternative but to repeal the related regulations.

(6) Any additional information or comments: The repeal of regulations 103 KAR 5:020 and 103 KAR 5:080 is necessitated by legislative changes enacted by the 1990 Kentucky General Assembly (HB 465 and HB 580).

TIERING: Was tiering applied? No. There is no statutory basis for tiering in relation to the affected entities.

GENERAL GOVERNMENT CABINET
Kentucky Board of Nursing

201 KAR 20:390. Nursing incentive scholarship fund.

RELATES TO: KRS 314.025, 314.026, 314.027

STATUTORY AUTHORITY: KRS 314.131

NECESSITY AND FUNCTION: The nursing incentive scholarship fund program was created by the General Assembly. This regulation implements the administration of the program.

Section 1. Definitions. (1) "Academic year" means, for a registered nursing program, a minimum of two (2) semesters; and for a practical nursing program, the completion of the required program.

(2) "Health facility" as used in this regulation shall have the same meaning as "health facility" as defined at KRS 216B.015(12).

(3) "Resident" as used in this regulation shall be determined pursuant to 13 KAR 2:040.

(4) "Rural area" means a county with less than 50,000 population or a county which is not part of a federally designated metropolitan statistical area.

(5) "Board" means the Kentucky Board of Nursing.

(6) "Committee" means the Nursing Incentive Scholarship Fund Committee.

Section 2. Application. (1) To be eligible for a nursing incentive scholarship, an applicant must be a Kentucky resident, must have applied for admission to an educational institution with an approved program of nursing in Kentucky, must have declared nursing as the major course of study and must have obtained a Kentucky health facility as a sponsor.

(2) An applicant shall complete an application, on a form provided by the board. The application must be received by the board between January 1 and May 1.

(3) The applicant shall send or cause to be sent to the board by May 1 an official high school transcript or equivalent (GED) and official transcripts showing postsecondary work completed.

(4) The applicant shall attach to the application a copy of the Student Aid Report from either the Kentucky Financial Aid Form (KFAF) or the Application for Student Aid (AFSA) for the current year.

Section 3. The Committee. (1) The committee shall be comprised of six (6) members. The board shall appoint one (1) registered nurse (RN) and one (1) licensed practical nurse (LPN) who are licensed to practice in the Commonwealth. The Kentucky Hospital Association, the Kentucky Primary Care Association and the Kentucky Association of Health Care Facilities shall appoint one (1) representative each. The board shall also appoint one (1) member of the board to the committee who shall act as chair of the committee.

(2) Members of the committee shall serve for one (1) year and may be reappointed.

(3) The committee shall meet at least annually by July 15 and more often if necessary to decide on scholarships for the upcoming academic year.

(4) The committee shall serve without compensation but may be reimbursed for actual and necessary expenses related to serving on the committee.

Section 4. Criteria for Awards. (1) The committee shall evaluate qualified applicants, giving preference to low-income, unemployed residents and to LPNs licensed in Kentucky. The committee shall also give preference to those applicants who have agreements with a sponsoring hospital, skilled nursing facility, immediate care facility or primary care center to work in a rural area of the state.

(2) The committee may also consider the following criteria in evaluating applicants:

(a) Prior health care work experience or education;

(b) Previous academic achievement as indicated by transcripts;

(c) Current acceptance as a declared nursing major in an educational institution with an approved program of nursing;

(d) Current admission or enrollment in an approved program of nursing.

Section 5. Amount of Award. (1) The committee shall be notified as to the current fund balance prior to making awards.

(2) The committee shall defer awarding a portion of the amount collected in odd-numbered fiscal years to the following fiscal year. The amount of the deferred portion shall be determined as follows: add the number of licensed RNs renewing as of the current year to the number of licensed LPNs who renewed in the previous year. Divide by two (2). Multiply by five (5). Subtract that figure from the amount collected, less administrative costs.

(3) The committee shall first make awards to those recipients who received awards in the previous year and remain eligible to receive awards pursuant to Section 7 of this regulation in the current year.

(4) The committee shall divide the remaining funds among the remaining applicants based on the criteria considered in Section 4 of this regulation. The committee shall earmark twenty-five (25) percent of the funds for awards to LPNs seeking RN licensure. However, if insufficient applications are received from LPNs, those unexpended earmarked funds shall be used for other applicants.

(5) The maximum award granted each year shall be the highest tuition charged for an academic year for a full-time student by a program of nursing in a public institution in Kentucky by a comparable program. By May 1 of each year, the committee shall determine the highest yearly tuition rate charged by a practical nursing program in a public institution in Kentucky, the highest yearly tuition rate charged by an associate degree registered nursing program in a public institution in Kentucky, and the highest yearly tuition rate charged by a prelicensure baccalaureate degree registered nursing program in a public institution in Kentucky. In making awards, the committee shall grant the maximum award until all funds for that year have been expended, except for students who will not be enrolled for an entire academic year. In those cases, the award shall be one-half (1/2) the maximum.

Section 6. Procedure for Disbursement of Awards. (1) Prior to actual disbursement of any funds, the educational institution must certify enrollment by the recipient.

(2) Disbursement of funds will be made directly to the school by the board.

(3) All recipients of awards who are enrolled in registered nursing programs must take a minimum of eight (8) credit hours per semester.

Section 7. Continuing Eligibility Criteria. (1) A registered nursing student recipient of a nursing incentive scholarship shall be eligible to continue to receive an award provided successful progression through the program is maintained as evidenced by the following:

(a) The completion of a minimum of eight (8) credit hours per semester;

(b) A cumulative grade point average of 2.0 on a 4.0 scale; and

(c) Verification of successful academic progression from the academic advisor of record on a form supplied by the board.

(2) The amount of the award shall be determined pursuant to Section 5(5) of this regulation.

(3) In order to be eligible to receive a continuing award, the recipient must provide the board by July 1 with the following: a request for continuation, an official transcript for the preceding academic year and a Student Aid Report for the current year.

(4) Award recipients in practical nursing programs are not eligible for continued awards while enrolled in such programs.

Section 8. Disbursement Contract. Prior to disbursement of funds for a particular year, the recipient shall sign a written contract and a promissory note in a form prescribed by the board.

Section 9. Miscellaneous. (1) Verification of employment with the health facility shall be submitted by the sponsor to the board when the recipient's employment commitment begins and when it is completed. Any termination prior to completion shall be reported to the board within thirty (30) days.

(2) If a recipient fails to complete the nursing program in which he is enrolled within the time specified by the program of nursing or if he fails to complete the required employment with the sponsor as specified in the contract, he shall immediately become liable to the board to pay the sum of all scholarships received and accrued interest thereon, unless the board, in its sole discretion, grants a deferment for cause.

(3) Persons liable for repayment of scholarships under this section shall be liable for interest accruing on each contract from the respective dates on which the scholarships were disbursed.

(4) Recipients shall notify the board of any change of name or address.

(5) Written notification of demand for repayment shall be sent by the board to the scholarship recipient's last known address and shall be effective upon mailing. The board may agree, in its sole discretion, to accept repayment in installments in accordance with a schedule established by the board. Payments shall first be applied to interest and then to principal on the earliest unpaid contracts.

ANGELA J. LASLEY, President

APPROVED BY AGENCY: October 19, 1990

FILED WITH LRC: October 22, 1990 at 10 a.m.

PUBLIC HEARING: A public hearing on this regulation shall be held on December 21, 1990 at 10 a.m. in Room 420 of the Professional Towers Building, 4010 Dupont Circle, Louisville, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by December 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: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 4010

Dupont Circle, Suite 430, Louisville, Kentucky 40207.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Nathan Goldman
(1) Type and number of entities affected: This regulation potentially affects all 18 schools of practical nursing and all 31 schools of registered nursing in Kentucky.
(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: The schools will be required to make progress reports on the student recipients to the board. Sponsoring health facilities will be required to report employment data. Contract and promissory note between board, scholarship recipient and sponsoring health facility.
(2) Effects on the promulgating administrative body: Anticipate substantial number of applications which will significantly increase agency workload between January and July annually.
(a) Direct and indirect costs or savings:
1. First year: Estimated administrative costs are $20,000.
2. Continuing costs or savings: Estimated yearly administrative costs are $20,000.
3. Additional factors increasing or decreasing costs: The number of applicants will have a direct impact on costs.
(b) Reporting and paperwork requirements: The administration of the program will require substantial reporting and paperwork.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Was tiering applied? Tiering is not applicable.

Department of Agriculture

302 KAR 1:080. Small grain producers referendum.

RELATES TO: KRS 247.5061
STATUTORY AUTHORITY: KRS 247.5075
NECESSITY AND FUNCTION: KRS 247.5075 authorizes the commissioner to establish and determine the rules and regulations to conduct a referendum among the producers of small grains and small grain products for the purpose of promoting and stimulating by utilization research, market maintenance and expansion and education, the existing use and sale, domestic and foreign of small grains and small grain products.

Section 1. Definitions. As used in these rules and regulations, unless the context requires otherwise:
(1) "Board" means the State Board of Agriculture;
(2) "Bushel" means the weight for each type of cereal grain defined by the United States Department of Agriculture;
(3) "Commissioner" means the Commissioner of Agriculture;
(4) "County referendum agent" means an appointed person by the Commissioner of Agriculture in a county where the small grains referendum is held, as his agent for conducting the referendum;
(5) "Gross market price per bushel" means the payment due a producer after normal price discounts such as deductions for moisture, test weight, and foreign matter have been calculated;
(6) "Kentucky Small Grain Growers Association" means an existing association, representative of small grain producers of Kentucky;
(7) "Marketed" means any quantities that are sold, bartered, or for which other items of value are exchanged in the state;
(8) "Marketing year" means the twelve (12) month period from June 1 to May 31 of the following year;
(9) "Person" means any individual, corporation, partnership, association, or cooperative, or other business entity;
(10) "Producer" means every person who produces and markets small grains;
(11) "Referendum agent" means an employee of the State Department of Agriculture under the direction of the Commissioner of Agriculture;
(12) "Small grain" means all kinds and varieties of cereal grains, such as wheat, oats, barley, rye, and triticale.

Section 2. Statewide Referendum. The small grain producers referendum will be conducted in all of the 120 counties in Kentucky.

Section 3. Who May Vote. (1) Each person engaged in the production of small grains on a commercial basis, including owners of farms on which small grains are produced, and tenants and sharecroppers sharing in the proceeds of small grains shall be eligible to cast one (1) vote in the referendum, provided the producer is eighteen (18) years of age or older.
(2) Without limiting subsection (1) of this section, each person whose name regularly appears on checks issued in payment for the sale of small grains is eligible to cast one (1) vote in the referendum regardless of the ownership of the farm upon which small grains are produced. No person who certifies to the county referendum agent that he is a producer of small grains shall be refused a ballot, but the person may be required to furnish the county referendum agent with information specific enough for the commissioner to verify the person's voting eligibility before the ballot is counted.

Section 4. Voting Place. The commissioner shall establish a voting place in each county within the state where producers of small grains reside. The voting place shall be in the county extension service office in each county where the referendum is conducted. If no county extension service office is located in a county where the referendum is conducted, the commissioner may designate an alternative voting

place. The referendum agent shall provide an area where each voter can mark his ballot in privacy. Only one (1) voter shall be permitted in the voting area at one time. One (1) or more county referendum agents shall be permitted in each voting place for the purpose of conducting the referendum. The county referendum agent shall be in charge of and be responsible for the voting area. Campaigning for or against the referendum will not be permitted in the county extension service office or referendum voting place during voting hours.

Section 5. Hours of Voting. The voting places will be open from 9 a.m. to 3 p.m. local time and eligible voters will be permitted to vote only during that period of time or by absentee ballot as set forth in Section 6 of this regulation. Voters shall be permitted to vote only in the county of their residence or in the case of a corporate producer in the county where its principal place of business is located.

Section 6. Absentee Voting. Voting by absentee ballot will be permissible; provided, that a request for an absentee ballot is made in writing to the commissioner at least ten (10) days in advance of the referendum voting date. The written request for an absentee ballot or multiple requests for absentee ballots are not permitted. The absentee ballot must be signed and returned to the commissioner on or before the referendum voting date. Absentee ballots postmarked before midnight of the date before the referendum voting date, and received by the commissioner before the counting of votes shall be considered returned to the commissioner on or before the referendum voting date.

Section 7. Referendum Voting Date. The small grain producers referendum voting date will be set by the commissioner after certification of the referendum. The date determined for the referendum, hours and polling places, the effective date of the assessment, if adopted, the amount and basis of the assessment proposed to be collected, the means by which the assessment will be collected and the general purposes to which the assessment shall be applied will be published by the commissioner through the medium of the public press in the Commonwealth of Kentucky at least thirty (30) days before the date of the referendum, and direct written notice of the referendum date shall be given to each county referendum agent.

Section 8. Supervision of Referendum and Duties of County Referendum Agent. The commissioner shall provide the each referendum agent with a copy of these rules and regulations. Each county referendum agent shall have in his possession and under his control a ballot box and the appropriate ballot forms, indelible marking pens, and other supplies sufficient to operate each polling place as established in Section 4 of this regulation. Each prospective voter shall identify himself to the county referendum agent; and the voter will be required to sign a registration form giving his name, complete mailing address and certification of his eligibility to vote in the referendum. The registration forms shall be maintained by the county referendum agent, and returned to the commissioner with the completed ballots. Upon signing the registration form, each prospective voter will receive an approved ballot form from the county referendum agent. The official ballot, after it has been completed by the voter, shall be placed in the ballot box.

Section 9. Approved Ballot Forms. The commissioner shall furnish each county referendum agent in advance with official ballot forms. The official ballot forms shall state the question to be presented to the voters. The question shall show that each small grain producer is voting on whether or not the small grain producer is in favor of the collection by the Kentucky Small Grain Growers Association of an assessment for the purposes of financing a promotional program to stimulate by utilization research, marketing maintenance and expansion, education, the increase use and sale, domestic and foreign of small grain and small grain products and for the prevention, modification, or elimination of trade barriers which obstruct the free flow of small grains and small grain products to market. The assessment collected by the purchasers of small grain or small grain products will be sent to the Kentucky Small Grain Growers Association to be used as provided in KRS 247.550(1). The assessment to be deducted from the payment for small grains delivered after June 1, 1991, in the following amounts for a marketing year which is June 1 to May 31 of the following year; one-fourth (1/4) of one (1) percent of the gross marketed price per bushel.

Section 10. Custody of Ballot Box and Referendum Material. Each county referendum agent shall provide a ballot box large enough to enclose all ballots cast in the referendum and to protect the ballots to ensure that the information on the ballots is held in confidence. The county referendum agent shall mail to the Department of Agriculture, all marked ballots and registration books used for the referendum. The ballots and registration books shall be mailed in a properly secured manila envelope or folder.

Section 11. Confidential Information. All ballots cast, the identity of the person who voted, or the manner in which any person voted, and all information furnished to, compiled by or in the possession of the commissioner, the county referendum agent, shall be regarded as confidential. The commissioner shall retain the records, the ballots, the results of the referendum, and all other information furnished to or compiled by the commissioner in regard to the referendum for a period of twelve (12) months.

Section 12. Counting of Votes. Within five (5) days after the referendum, the commissioner shall designate an area within the department's office to be used for counting the votes cast in the referendum. The vote count shall be conducted by employees of the department, but the Kentucky Small Grain Growers Association, and any organization actively engaged in the production of small grain or small grain products in Kentucky, may each have one (1) representative present during the counting of the votes. The organization shall establish, to the satisfaction of the commissioner, that it desires to observe the counting of the ballots for a legitimate purpose.

Section 13. Announcement of Referendum Results. Announcement of the results of the referendum will be made only by the commissioner. The referendum agent or others who assist in the referendum shall not disclose any information in regard to the referendum. The commissioner will announce the results within ten (10) days after the referendum.

Section 14. Referendum Costs. All costs and expenses incurred by the commissioner in connection with the referendum shall be borne by the association conducting the referendum. The commissioner shall notify the association of all documented costs and expenses incurred in conducting the referendum including mailing and shipping costs, within ninety (90) days of the date of the results the referendum is announced by the commissioner.

Section 15. Affirmative Vote. An assessment approved by an affirmative vote as defined by KRS 247.508(3), shall be collected or remitted on or before the 15th day of the month following the end of the month in which the small grains are sold to the purchaser in the manner determined and announced by the association conducting the referendum.

Section 16. Subsequent Referendum. Any subsequent referendum among the producers shall be conducted in accord with the provisions of this regulation. Except that the official ballots shall show that the question to be presented to the voters is whether or not the one-fourth (1/4) of one (1) percent assessment on the gross market price per bushel for small grain and small grain products in the state shall continue after the market year in which the referendum is conducted.

WARD "BUTCH" BURNETTE, Commissioner
APPROVED BY AGENCY: October 16, 1990
FILED WITH LRC: October 17, 1990 at 1 p.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 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 December 23, 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, 500 Mero Street, 7th Floor, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Michael Noyes
(1) Type and number of entities affected:
(a) Direct and indirect costs or savings to those affected:
1. First year: This regulation is promulgated as required by KRS 247.5073 to provide regulations governing a referendum to be conducted by the Small Grain Producers pursuant to KRS 247.5061. The commissioner is required to provide rules governing the conduct and management of the referendum. There will be no direct or indirect expense incurred by the department as any expense associated with conducting, managing or supervising the referendum. The referendum must be reimbursed by the Small Grain Producers Association conducting the referendum as required by KRS 247.5075. A separate regulation is required to establish and provide notice of the rules governing the referendum.
2. Continuing costs or savings: Pursuant to KRS 247.5075, no continuing costs or savings will be incurred.
3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no factors increasing or decreasing costs and the regulation has no effect on competition.
(b) Reporting and paperwork requirements: Any paperwork or reporting requirements in conducting, supervising and managing the referendum are specific requirements set out by statute.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: See above.
2. Continuing costs or savings: See above.
3. Additional factors increasing or decreasing costs: See discussion above.
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: This regulation has no direct impact upon state or local revenues.
(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative method exists. This regulation is a specific requirement of KRS 247.5075.
(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 governing the referendum require uniformity and, therefore, prohibit tiering.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. An association representative of small grain producers is authorized to conduct a producer referendum pursuant to KRS 247.5061. Pursuant to KRS 247.5075, the commissioner is required to promulgate rules and regulations governing the hours, voting place and area within which the referendum will be conducted. This regulation is promulgated pursuant to statutory requirements set out and has no impact upon any federal mandate.
2. State compliance standards. No. This regulation is promulgated in direct compliance with a Kentucky statute. There is no applicable federal jurisdiction or standard.

3. Minimum or uniform standards contained in the federal mandate. Not applicable.
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate?
5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.

DEPARTMENT OF AGRICULTURE
Division of Animal Health

302 KAR 20:220. Pseudorabies: eradication and control.

RELATES TO: KRS Chapter 257
STATUTORY AUTHORITY: KRS 257.110, 257.120, 257.030, 257.480
NECESSITY AND FUNCTION: To provide procedures for enabling the Board of Agriculture to approve a pseudorabies herd cleanup plan and to eradicate pseudorabies from a porcine herd or animal upon a determination of infection or exposure to pseudorabies. These procedures are necessary in order to achieve pseudorabies control and eradication.

Section 1. Definitions. (1) "Breeding swine" means male or female porcines which are sexually intact, six (6) months of age or older, which are specifically used or intended to be used for reproduction.
(2) "Circle testing" means serological sampling of swine required by an official pseudorabies epidemiologist in herds that are within one and one-half (1.5) miles of a known infected herd.
(3) "Depopulation" means a procedure where the premises is cleared of all swine at a specified time.
(a) "Mandatory depopulation" means the required removal of all swine from a premises for which no official herd plan was developed or followed or the herd plan used is not effective in the elimination of pseudorabies.
(b) "Official depopulation" means a herd plan for a herd with an infection rate of more than ten (10) percent recommended by an official epidemiologist where the herd owner agrees to clear the premises of all swine in a manner approved by the state veterinarian and where indemnity is paid on all breeding swine in the herd.
(c) "Voluntary depopulation" means a herd plan for a herd with an infection rate of less than ten (10) percent chosen by the owner where the premises is cleared of all swine and where indemnity is paid only for seropositive breeding swine.
(4) "Exposed swine" means any swine that has been in known contact with an animal infected with pseudorabies. This includes all swine in a known infected herd.
(5) "Herd" shall mean all porcine animals maintained for any purpose on common grounds under common ownership or supervision, including animals which may be geographically segregated and have interchange or movement of animals without regard to health status.
(6) "Indemnity" means monies paid to the owner by the state-federal agencies in addition to the salvage value of the swine.
(7) "Known infected herd" means any herd in which swine have been determined to be infected with pseudorabies by an official pseudorabies epidemiologist or state veterinarian.
(8) "Official herd cleanup plan" means a plan developed by an official pseudorabies epidemiologist in consultation with the herd owner and his or her veterinary practitioner when applicable and approved by the state veterinarian for the purpose of eliminating pseudorabies from the herd. This plan may include test and slaughter, depopulation, offspring segregation with or without vaccination or a combination of any approved procedure.
(9) "Official pseudorabies epidemiologist" means a state or federal employed veterinarian designated by the state veterinarian and the federal veterinarian in charge, to investigate, diagnose, and make recommendations concerning suspected pseudorabies in swine.
(10) "Official pseudorabies test" means any serological test approved by the state veterinarian for the diagnosis of pseudorabies and is licensed or approved by the United States Department of Agriculture.
(11) "Official random sample test" means a group sampling of swine utilizing serological tests which provide a ninety-five (95) percent probability of detecting pseudorabies in a segregated group of swine when at least ten (10) percent of the animals tested are seropositive for pseudorabies.
(12) "Positive animal" means an animal which has given a positive reaction to an official test for the detection of pseudorabies and is so classified by an official epidemiologist or where the pseudorabies virus has been found in the body of an animal or in the body discharge of an animal.
(13) "Pseudorabies" means a communicable, contagious and infectious disease caused by a herpes virus affecting livestock and other animals.
(14) "Pseudorabies monitored feeder pig herd" means a swine breeding herd in which boars and sows have been sampled and tested negative for pseudorabies during the last twelve (12) months according to the requirements of 302 KAR 20:210.
(15) "Pseudorabies vaccine" means a pseudorabies vaccine licensed by the United States Department of Agriculture.
(16) "Qualified pseudorabies negative herd" means a swine herd that is free of pseudorabies and maintains a pseudorabies free status by periodic testing of breeding swine.
(17) "Quarantine feedlot" means a premises where swine of unknown health status are fed for slaughter under procedures approved by the state veterinarian.
(18) "Salvage value" means the carcass worth of an animal.
(19) "Test and slaughter" means a herd plan where positive animals are removed from the herd within thirty (30) days of classification and additional tests are performed on the herd.

Section 2. Procedures. (1) The owner of a known infected herd shall apply to the state veterinarian for approval of an official herd cleanup plan within thirty (30) days of notification that his herd is classified as a known infected herd.
(2) The official herd cleanup plan shall provide as follows:
(a) Within ninety (90) days from the date of

notification of classification as a known infected herd, the owner shall implement an approved herd cleanup plan.

(b) The owner of the herd shall cooperate with the department in conducting the necessary testing, classification and supervision of the herd.

(c) Animals within the herd shall be removed to slaughter or depopulated under the supervision of the state veterinarian and as provided in the official herd cleanup plan.

(d) Pseudorabies vaccine shall be used only with approval of the state veterinarian.

(3) When official depopulation is the approved herd cleanup plan, the plan shall require the premises to be cleared of breeding swine within two (2) months from the date of approval and cleared of all swine within eight (8) months of the plan approval date.

(4) The official herd cleanup plan shall provide for the completion of all requirements set out in the cleanup plan within twenty-four (24) months from the approval date of the plan. However, the state veterinarian may approve additional time to complete the official cleanup plans not to exceed ninety (90) days for completion of all requirements set out in the plan.

(5) The herd cleanup plan may be changed or amended when approved by the official pseudorabies epidemiologist and the state veterinarian.

(6) When the owner of a pseudorabies infected herd does not develop an official herd cleanup plan or when the state veterinarian determines that the official herd cleanup plan has not or will not effectively eliminate pseudorabies from a swine herd, and that approval or continuation of the official herd cleanup plan is unlikely to effectively eliminate pseudorabies from the herd, the board or its authorized agents shall order depopulation as provided by KRS 257.110. The following procedures shall apply:

(a) Notification to the owner of the order of depopulation shall be delivered to the owner or mailed to the owner's business address by certified mail. This notification shall include test results and other appropriate documents supporting the depopulation order.

(b) The owner shall have fifteen (15) days from receipt of notification of the depopulation order to appeal said order by written request to the state verterinarian that he or she disagrees with said order. If no appeal is recieved within this time, an order of depopulation shall be issued.

(c) The owner may submit written arguments or may schedule a conference with the state pseudorabies epidemiologist and the state veterinarian within fifteen (15) days of the written request appealing said order.

(d) The owner shall be notified by certified mail within seven (7) days after receipt of written arguments or conference as to the state veterinarian's final ruling on the appeal.

(e) When mandatory depopulation is ordered, all breeding swine shall be removed from premises for slaughter within two (2) months and all swine shall be removed from premises within eight (8) months of owner's receipt of depopulation order.

(f) The premises shall meet quarantine release as required in Section 7 of this regulation.

Section 3. Pseudorabies Program Testing. (1) Within thirty (30) days of a request for testing by the department, the owner of swine shall submit their swine for required testing and provide the department with necessary facilities and assistance required for conducting testing.

(2) Pseudorabies testing shall be in addition to the testing requirements set out in 302 KAR 20:210, Section 2, and may include random sample test or complete herd test as determined by the state veterinarian.

(3) An official random sample test shall include all animals in a segregated unit or a minimum of thirty (30) animals, whichever is less.

(4) Expenses incurred in collection of blood samples in infected herds, circle testing, slaughter traces and epidemiological tracings may be paid or reimbursed, if funds are available, in amount specified and approved by the state veterinarian.

(5) Expenses incurred in serological testing may be paid by state-federal funds when samples are submitted to a state-federal laboratory designated by the state veterinarian.

(6) Contract for fee basis. The state veterinarian may provide for reimbursement for payment of the expenses authorized in this regulation by a fee basis contract or agreement with a veterinary practitioner accredited and licensed in Kentucky.

Section 4. Movement of Qualified and Monitored Swine. (1) Testing shall be the responsibility of the seller. All breeding swine in Kentucky offered for sale to a Kentucky producer shall be negative to an official test within thirty (30) days of the date of change of ownership, or the swine must originate directly from a qualified pseudorabies negative herd.

(2) Feeder pigs from a qualified pseudorabies negative herd or pseudorabies monitored feeder pig herd may be moved without individual identification from the originating Kentucky farm to another Kentucky farm for purposes of feeding for slaughter providing all feeder pigs on the recipient farm are from the same originating herd when all other requirements of 302 KAR 20:210 are met and with specific approval of the Kentucky State Veterinarian.

(3) Swine originating from a state which qualifies for Stage IV or V under the national program standards may enter Kentucky without a test unless a test prior to entry for exhibition or sale is required by the state veterinarian.

Section 5. Quarantine Swine Feed Lots. (1) Quarantine swine feed lots shall be permitted under the authority and direction of the state veterinarian. Quarantine feed lots shall comply with the following requirements to prevent the spread of disease from the premises.

(a) Owner shall have a permit which is issued by the state veterinarian and renewed annually.

(b) All owners are required to have a Kentucky dealer's license.

(c) Known pseudorabies positive or pseudorabies exposed swine shall not enter feed lot premises.

(d) Quarantine feed lots shall not be permitted within a two (2) mile radius of a qualified pseudorabies negative herd or pseudorabies monitored feeder pig herd.

(e) All swine owners within a two (2) mile radius of a quarantine feed lot shall be

notified prior to the issuance of a quarantined feed lot permit.

(f) All swine leaving these premises shall be sold for slaughter.

(g) A swine breeding operation shall not be maintained on the same premises or on other farms under the same management without all swine being under quarantine.

(h) Records of sales and purchases shall be kept as directed by the state veterinarian.

(i) All swine entering quarantine feeding premises shall be identified with an official slaughter eartag.

(j) All swine must weigh 150 pounds or more to be eligible for entry to a quarantine feeding premises.

(k) Boars and bred females shall not enter or be maintained in a quarantined swine feed lot.

Section 6. Indemnity. (1) State indemnity funds, if available, shall be paid only for the following classes of swine that are sent directly to slaughter in the following amounts:

(a) Twenty-five (25) dollars per head for all seropositive breeding swine when test and slaughter, voluntary depopulation or a herd plan other than official depopulation or mandatory depopulation is the herd cleanup plan.

(b) Fifty (50) dollars per head on all breeding swine where official depopulation is the official herd cleanup plan.

(2) In order to be eligible for indemnity, any swine on which indemnity is requested must have been in Kentucky for six (6) months prior to the time of the first test determining pseudorabies infection within a herd.

(3) In order to be eligible for state indemnity funds pursuant to this regulation, a written depopulation agreement shall be signed by the owner seeking state indemnity. Authorization for depopulation and for the payment of indemnity shall be approved by the state veterinarian and the amount of indemnity is to be stated prior to the signing of the agreement.

(4) The refusal of the state veterinarian to approve payment of state indemnity for any reason set out in KRS 257.120(4) shall not restrict or otherwise limit the state veterinarian's authority to order slaughter or depopulation of infected or exposed porcine animals.

Section 7. Quarantine Release. (1) Known infected herds and premises shall be released from quarantine when:

(a) The herd has been depopulated for at least thirty (30) days and the premises cleaned and disinfected. If the premises is repopulated, the herd shall have a negative test thirty (30) to sixty (60) days after repopulation.

(b) When test and slaughter was the official herd cleanup plan, the herd shall have two (2) negative tests. The first test shall be no less than thirty (30) days after the last positive animal has been sold to slaughter. The second test shall be more than sixty (60) days after the last positive animal is sold for slaughter. The second test shall include all breeding swine and other swine on the premises shall be random sampled.

(2) Other quarantined herds shall be released after a negative test as directed by the official pseudorabies epidemiologist and quarantine release approved by the state veterinarian.

WARD "BUTCH" BURNETTE, Commissioner
APPROVED BY AGENCY: November 9, 1990
FILED WITH LRC: November 13, 1990 at noon

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 28, 1990, at 1 p.m. at the Department of Agriculture Conference Room, 7th Floor, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by December 24, 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to: J. Michael Noyes, General Counsel, Department of Agriculture, Capital Plaza Tower, 500 Mero Street, Floor 7, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Dr. Don Notter

(1) Type and number of entities affected: There are 11,000 swine herds that are affected by this regulation.

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

1. First year: With the initiation of this regulation on disease control in the swine industry the savings could increase from 80% of productivity now to 100%.

2. Continuing costs or savings: Continued practice of this regulation would decrease the costs and add to the savings for the producer.

3. Additional factors increasing or decreasing costs (note any effects upon competition): As the numbers of infected animals decrease the costs decrease.

(b) Reporting and paperwork requirements: Minimal required reporting.

(2) Effects on the promulgating administrative body: There will be no additional manpower. Existing personnel will be used.

(a) Direct and indirect costs or savings:

1. First year: $263,000 has been budgeted for implementing this regulation for eradication of pseudorabies, equipment and sample analysis for the year of 1990-91.

2. Continuing costs or savings: The rate of decrease in the numbers of infected animals dictates the declining costs and/or savings. $224,000 has been budgeted for the year 1991-92.

3. Additional factors increasing or decreasing costs: This regulation compliments the existing surveillance regulation and as infected animals decrease costs would decrease and savings would increase.

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: None. This regulation relates only to control of a communicable

disease and does not affect revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Based upon clinical veterinary practice and disease protocols as applied to other diseases, there is no reasonable alternative to the regulation and eradication of pseudorabies through a herd cleanup plan.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: 302 KAR 20:210 relates to the pseudorabies surveillance in swine.

(a) Necessity of proposed regulation if in conflict: This regulation is not in conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: The regulation is not in conflict with any other regulation.

(6) Any additional information or comments:

TIERING: Was tiering applied? No. Control and eradication of pseudorabies requires that regulatory procedures for controlling the disease be applied to all owners of swine.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. The proposed administrative regulation for pseudorabies control eradication in porcine does not exceed the federal mandate as established by the Pseudorabies Eradication State/Federal Industry Program Standards.

2. State compliance standards.

3. Minimum or uniform standards contained in the federal mandate.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No, see answer to No. 1.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Not stricter than federal requirements.

TOURISM CABINET
Department of Parks

304 KAR 1:050. Metal detectors.

RELATES TO: KRS Chapter 148
STATUTORY AUTHORITY: KRS 148.021
NECESSITY AND FUNCTION: This regulation requires the Department of Parks to enforce restrictive rules, policies and procedures which preclude unnecessary damage to natural areas and other facilities without mitigating the degree of flexibility required to provide proper and adequate service to the visiting public. Upon enactment of this administrative regulation, the Department of Parks will institute policies to efficiently and effectively cover its assigned stewardship mission on behalf of the citizens of the Commonwealth. Because of the great number of patrons visiting the state parks, the Department of Parks finds it necessary to establish a regulation governing the use of metal detectors. This regulation will allow the department to operate efficient, orderly facilities for the benefit of all the visiting public.

Section 1. The use of metal detectors shall be prohibited in all Kentucky state parks.

RAPIER SMITH, Commissioner
APPROVED BY AGENCY: November 5, 1990
FILED WITH LRC: November 7, 1990 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Friday, December 21, 1990 at 9 a.m. at the Department of Parks' Conference Room, 10th Floor, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by December 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: James R. Kennedy, Department of Parks, 500 Mero Street, 11th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601-1974.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: James R. Kennedy

(1) Type and number of entities affected: 44 state parks statewide.

(a) Direct and indirect costs or savings to those affected: The Department of Parks should be able to enjoy some degree of savings in time and money, by being relieved of most of the cost of repair of areas defaced and damaged through the unlawful taking of artifacts and items of vegetation currently regulated by KRS 148.021.

1. First year: Since this new administrative regulation precludes an undetermined share of the total maintenance cost of operation of the parks system, it is difficult to forecast a specific dollar value level of savings initially. Savings to the department will be commensurate with volume of damage precluded on a park by park basis.

2. Continuing costs or savings: Savings to the department should sustain at approximately the same level as realized during the first year of the new administrative regulation.

3. Additional factors increasing or decreasing costs (note any effects upon competition): Department of Parks' facilities are not in direct (or indirect) competition with other public or privately owned facilities. There is no current plan for adjusting other user regulations, therefore, no appreciable cost reductions are forecasted.

(b) Reporting and paperwork requirements: No additional requirements are anticipated beyond those currently in force.

(2) Effects on the promulgating administrative body: The enactment of 304 KAR 1:050 will give the Department of Parks a much needed requirement for providing greater service to the visiting public. The restrictive nature of 304 KAR 1:050 places necessary administrative and public relations requirements on the Department of Parks.

(a) Direct and indirect costs or savings: The direct cost to the Department of Parks is reflected in the revenue lost due to the

maintenance and repair efforts created in conjunction with the use of metal detectors.

1. First year: Since this is a new regulation, specific estimates of the revenue that would be generated are difficult to provide.

2. Continuing costs or savings: As is the case in #1 above, savings and profits may be more accurately forecasted once an initial year of the regulation enforcement has been conducted.

3. Additional factors increasing or decreasing costs: A reduction in damage to facilities will reduce administrative support to a minimal extent. There will be no additional costs associated with this change, and no presently measurable savings are indicated.

(b) Reporting and paperwork requirements: The reduction in processing damage reports will reduce reporting and paperwork requirements to some extent.

(3) Assessment of anticipated effect on state and local revenues: The Department of Parks will realize a savings in maintenance and repair revenues with a corresponding small decrease in administrative costs.

(4) Assessment of alternative methods; reasons why alternatives were rejected: The best alternative to the unnecessary maintenance and repair costs currently required would be the enforceability of operational policies which efficiently and effectively cover the requirements stipulated in this administrative regulation. The absence of an administrative regulation has created a lack of the flexibility needed to affect enforcement of an existing policy as required.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no evidence of the evidence of the existence of any statute, administrative regulation, or government policy which may be in conflict, overlapping, or a duplication of this administrative regulation.

(a) Necessity of proposed regulation if in conflict: No conflict identified.

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

(6) Any additional information or comments: No further information or comments.

TIERING: Was tiering applied? No. All Department of Parks' facilities are operated under one set of rules, policies and procedures. Tiering does not apply in this instance.

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

401 KAR 47:134. Limitations on amount of waste accepted by residential landfills.

RELATES TO: KRS Chapter 224

STATUTORY AUTHORITY: KRS 224.033, 224.842, 224.887

NECESSITY AND FUNCTION: This regulation authorizes the Natural Resources and Environmental Protection Cabinet to limit five to (5) percent the annual increase of in-state or out-of-state waste, by weight or volume, which a residential landfill may accept, beyond the amount accepted during July, 1989 through June, 1990. The regulation also limits the amount of waste a residential landfill may accept to the maximum it is required to take under contracts executed prior to October 19, 1990. After a contract expires, a five (5) percent limitation applies to increases over the annual amount accepted during July, 1989 through June, 1990. The cabinet may revise the limitations to assure the capacity for disposal of Kentucky's solid waste, to protect against risks to human health or welfare or to the environment, or to carry out any other requirement of KRS Chapter 109 or 224, or regulations promulgated pursuant thereto. Residential landfills which were not designed to meet the more environmentally protective requirements applicable to contained landfills may be authorized to operate until July 1, 1995. However, the cabinet has found that certain of those residential landfills are greatly increasing the amount of waste they dispose, to fill the landfills before they are required to meet the more stringent requirements. Existing residential solid waste landfills are required by November 8, 1990 to notify the cabinet whether they intend to close or to meet the transition standards of 401 KAR 47:080, Section 4, by July 1, 1992. The cabinet has been directed to analyze this information to determine the remaining capacity for the disposal of solid waste generated in Kentucky and to report its findings to the Governor on or before January 31, 1991. The cabinet shall use the information it receives and the report it prepares to assess the disposal capacity required for waste generated in Kentucky. The emergency regulation is necessary to assure the capacity for disposal of Kentucky's solid waste, to limit the disposal of waste at residential landfills which do not meet the more environmentally protective requirements for contained landfills, to protect Kentucky's groundwater from contamination, and to assure that waste is disposed at solid waste facilities which are consistent with the comprehensive state solid waste management program to be considered by the General Assembly in the special legislative session to be convened in January 1991.

Section 1. Annual increases in the amount of in-state or out-of-state waste accepted by a residential landfill shall not exceed more than five (5) percent of the annual amount, by weight or volume, accepted during the twelve (12) month period from July, 1989 through June 1990, unless the following criteria are met:

(1) The landfill is designed in accordance with the requirements of 401 KAR Chapters 30 through 49, inclusive, applicable to contained landfills;

(2) The landfill is required to accept a greater amount of waste pursuant to a contract executed before October 19, 1990; or

(3) The cabinet determines that an alteration is necessary to be consistent with the area solid waste management plan, to assure the capacity for disposal of Kentucky's solid waste, to protect against risks to human health or welfare or to the environment, or to carry out any other requirement of KRS Chapter 109 or 224, or regulations promulgated pursuant thereto.

Section 2. For a residential landfill which did not operate for the entire period from July,

1989 through June, 1990, the five (5) percent limitation of Section 1 of this regulation shall apply to the average daily amount of waste the landfill accepted over the period it was in operation.

Section 3. If a residential landfill is required to accept an amount of waste greater than that accepted from July, 1989 through June, 1990, pursuant to a contract executed before October 19, 1990, the landfill shall not accept increases in the amount of waste, by weight or volume, beyond the maximum required by that contract. Upon termination of the contract, annual increases in the amount of in-state or out-of-state waste accepted shall not exceed more than five (5) percent of the annual amount, by weight or volume, accepted during July 1989 through June, 1990, unless the cabinet determines that an alteration is necessary in accordance with Section 1(3) of this regulation.

Section 4. The owner or operator of a residential landfill seeking to increase the amount of waste which it may accept shall apply for a major modification of its permit in accordance with 401 KAR 47:130 and 401 KAR 47:140. The permittee shall demonstrate to the cabinet that during the period from June 1, 1990 to the date of the application:

(1) The landfill has not accepted waste from sources which were not approved in its permit, as required by 401 KAR 48:090, Section 8(1)(c); and

(2) The landfill has kept accurate records of the volumes of waste received from each source, as required by 401 KAR 47:190, Section 8(1)(b).

FRANK DICKERSON, Commissioner
CARL H. BRADLEY, Secretary

APPROVED BY AGENCY: October 19, 1990

FILED WITH LRC: October 19, 1990 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 27, 1990 at 10 a.m. at the Department of Transportation Auditorium, State Office Building, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by December 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: Susan Bush, Director, Division of Waste Management, Frankfort Office Park, 18 Reilly Road, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Linda Stacy

(1) Type and number of entities affected: The entities affected by this regulation are members of the public, transporters of solid waste, and persons engaged in the business of solid waste disposal.

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

1. First year: No additional costs to the regulated community should result from this regulation. Persons engaged in the business of solid waste disposal who have existing contracts are not bound by the five (5) percent limitation. Only after those contracts expire does the five (5) percent limitation apply. In addition the limitation may be altered if additional disposal capacity is needed. Members of the public will recognize a savings because solid waste will not be disposed in residential landfills which do not meet the more environmentally-protective standards applicable to contained landfills.

2. Continuing costs or savings: The continuing costs or savings are the same as the costs and savings for the first year.

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

(b) Reporting and paperwork requirements: This regulation does not contain any additional reporting or paperwork requirements beyond those currently required by 401 KAR Chapters 30 through 49, inclusive.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Changes as specified in this regulation will have no effect on the operation or costs of the Natural Resources and Environmental Protection Cabinet. The cabinet has already internalized costs associated with implementing this regulation with normal budget appropriations. This regulation as it relates to the operation of the cabinet does not change the basis for routine procedures involved in issuing solid waste permits.

2. Continuing costs or savings: The continuing costs or savings are the same as those identified for the first year.

3. Additional factors increasing or decreasing costs: None determined.

(b) Reporting and paperwork requirements: The regulation will not affect the amount of paperwork of the Natural Resources and Environmental Protection Cabinet.

(3) Assessment of anticipated effect on state and local revenues: This regulation will not have an effect on state and local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: The Natural Resources and Environmental Protection Cabinet must limit the amount of waste disposed at residential landfills which do not meet the more environmentally-protective design criteria for contained landfills. The only alternative to this regulation would have been to prohibit residential landfills from accepting additional waste. The alternative selected is the less burdensome.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No statutes, administrative regulations or government policies were found to be in conflict, overlapping or in duplication of this regulation.

(a) Necessity of proposed regulation if in conflict: Not applicable.

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

with conflicting provisions: Not applicable.
(6) Any additional information or comments: None
TIERING: Was tiering applied? Yes. This regulation affects only residential landfills which were not designed to the more environmentally-protective criteria applicable to contained landfills. The regulation is also tiered to protect existing contracts for the disposal of solid waste.

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___ (If yes, complete questions 2-4)
2. State what unit, part or division of local government this administrative regulation will affect. This regulation will affect those local governments which have employed a residential landfill to dispose of local waste. However, the five (5) percent limitation of this regulation is not expected to prevent a local government from properly disposing of all solid waste local residents generate because the limitation may be raised if additional disposal capacity is needed.
3. State the aspect or service of local government to which this administrative regulation relates. This regulation relates to solid waste disposal services provided by local governments.
4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.
Revenues (+/-):
Expenditures (+/-):
Other Explanation: No effect is expected because a local government which needs additional disposal capacity will have access to that capacity.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. None
2. State compliance standards. The proposed regulation addresses solid waste disposal in Kentucky. The regulation limits the amount of waste residential landfills not designed in accordance with criteria applicable to contained landfills may accept. The regulation requires waste to be diverted to a solid waste disposal facility with available capacity if the disposal facility previously accepting the waste is closed. The regulation requires the accepting facility to apply for a permit modification.
3. Minimum or uniform standards contained in the federal mandate. Not applicable.
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? Not applicable.
5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Not applicable.

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

401 KAR 47:136. Diversions of waste.

RELATES TO: KRS Chapter 224
STATUTORY AUTHORITY: KRS 224.033, 224.842, 224.887
NECESSITY AND FUNCTION: This regulation requires waste to be diverted to a permitted solid waste disposal facility with adequate capacity if the cabinet revokes, suspends or denies a permit or orders a solid waste disposal facility to cease accepting waste. That diversion shall require a minor permit modification to the permit of the receiving facility. Existing residential solid waste landfills are required by November 8, 1990 to notify the cabinet whether they intend to close or to meet the transition standards of 401 KAR 47:080, Section 4 by July 1, 1992. The cabinet has been directed to analyze this information to determine the remaining capacity for the disposal of solid waste generated in Kentucky and to report its findings to the Governor on or before January 31, 1991. The cabinet shall use the information it receives and the report it prepares to assess the disposal capacity required for waste generated in Kentucky. The regulation is necessary to assure that solid waste is disposed at permitted solid waste disposal facilities in a manner protective of human health and the environment and consistent with Kentucky's long-range planning goals for solid waste management, to protect Kentucky's groundwater from contamination, and to assure that solid waste is disposed in a manner consistent with the comprehensive state solid waste management program to be considered by the General Assembly in the special legislative session to be convened in January, 1991.

Section 1. If the cabinet revokes, suspends or denies a permit for a solid waste disposal facility, orders the facility to cease accepting waste, or if the facility otherwise ceases to accept waste, the wastes which would have been accepted by the facility shall be diverted to a permitted solid waste facility with adequate disposal capacity. The diversion shall require a minor modification of the permit for the solid waste facility accepting the diverted waste, in accordance with 401 KAR 47:130.

Section 2. The owner or operator of the solid waste disposal facility prohibited from accepting waste shall post and maintain a clearly-legible sign advising the public that waste shall not be disposed at the facility.

FRANK DICKERSON, Commissioner
CARL H. BRADLEY, Secretary
APPROVED BY AGENCY: October 19, 1990
FILED WITH LRC: October 19, 1990 at 4 p.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 27, 1990 at 10 a.m. at the Department of Transportation Auditorium, State Office Building, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by December 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: Susan Bush, Director, Division of Waste Management, Frankfort Office Park, 18 Reilly Road, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Linda Stacy

(1) Type and number of entities affected: The entities affected by this regulation are members of the public, transporters of solid waste, and persons engaged in the business of solid waste disposal.

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

1. First year: For those solid waste waste facilities accepting solid waste diverted from solid waste disposal facilities which have ceased accepting waste, costs imposed by this regulation will be limited to the costs of applying for a permit modification. Members of the public will recognize a savings because solid waste will not be disposed in substandard landfills while major modifications are being processed.

2. Continuing costs or savings: The continuing costs or savings are the same as the costs and savings for the first year.

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

(b) Reporting and paperwork requirements: This regulation obligates a solid waste facility accepting waste diverted from a closed solid waste disposal facility to apply for a permit modification, which is also an existing requirement.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: This regulation will have no effect on the operation or costs of the Natural Resources and Environmental Protection Cabinet. The cabinet has already internalized costs associated with implementing this regulation with normal budget appropriations. This regulation as it relates to the operation of the cabinet does not change the basis for routine procedures involved in managing solid waste permits.

2. Continuing costs or savings: The continuing costs or savings are the same as those identified for the first year.

3. Additional factors increasing or decreasing costs: None determined.

(b) Reporting and paperwork requirements: None determined.

(3) Assessment of anticipated effect on state and local revenues: This regulation will not have an effect on state and local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: The cabinet could identify no viable alternative to considering as minor permit modifications those requests by solid waste facilities to accept waste from closed disposal facilities. Major modifications, the only other alternative, were deemed too time-consuming to process since delay would mean the cabinet might have to allow substandard landfills under a closure order or permit revocation to continue accepting waste.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No statutes, administrative regulations or government policies were found to be in conflict, overlapping or in duplication of this regulation.

(a) Necessity of proposed regulation if in conflict: Not applicable.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.

(6) Any additional information or comments: None

TIERING: Was tiering applied? Yes. The regulation applies only to those landfills which no longer accept solid waste for disposal. The regulation also applies only to those solid waste facilities which accept the solid waste diverted from closed landfills.

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___ (If yes, complete questions 2-4)

2. State what unit, part or division of local government this administrative regulation will affect. This regulation will affect only those local governments operating a solid waste disposal facility which closes or which elects to accept solid waste from a facility which closes.

3. State the aspect or service of local government to which this administrative regulation relates. This regulation relates to solid waste disposal services provided by local governments.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: There will be no effect from this regulation, since a permit modification is currently needed if a local government elects to accept additional solid waste at its disposal facility, and closures may be ordered under existing regulations.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. None

2. State compliance standards. The proposed regulation addresses solid waste disposal in Kentucky. The regulation requires waste to be diverted to a solid waste disposal facility with available capacity if the disposal facility previously accepting the waste is closed. The regulation requires the accepting facility to apply for a permit modification.

3. Minimum or uniform standards contained in the federal mandate. Not applicable.
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? Not applicable.
5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Not applicable.

CORRECTIONS CABINET

501 KAR 9:025. Administration; management.

RELATES TO: KRS 441.057
STATUTORY AUTHORITY: KRS 441.057
NECESSITY AND FUNCTION: KRS 441.057 requires the Corrections Cabinet to promulgate regulations establishing minimum standards for facilities. This regulation sets forth procedures to be followed for the administration and management of facilities. This regulation replaces 501 KAR 9:020 which expired because of an objection by the Administrative Regulation Review Subcommittee.

Section 1. Policy and Procedure - Organization. (1) The jailer shall develop and maintain an organizational chart and an operations manual of policy and procedure which has been adopted by the fiscal court and filed with the Corrections Cabinet.
(2) The written policy and procedures manual shall be made available to employees.
(3) The operations manual shall include but not be limited to the following aspects of the facility's operation:
(a) Administration.
(b) Fiscal management.
(c) Personnel.
(d) Security and control.
(e) Sanitation and hygiene.
(f) Medical services.
(g) Food services.
(h) Emergency and safety procedures.
(i) Classification.
(j) Juvenile programs.
(k) Juvenile services.
(l) Admission and release.
(m) Rules and discipline.
(n) Volunteers.
(4) The operations manual shall be reviewed and updated at least annually. All revisions shall be marked with the effective date and filed with the Corrections Cabinet.

Section 2. Legal Assistance. (1) The jailer shall be represented and advised by the county attorney as provided in KRS 69.210.
(2) The county attorney shall advise the fiscal court in writing when legal representation or legal advisement to the jailer by that office is inappropriate or creates a conflict of interest. The fiscal court shall be encouraged to carry liability insurance for the facility staff and other county officials.

Section 3. Public Information. (1) The jailer shall develop and implement a procedure for the dissemination of information about the facility to the public, to government agencies, and to the media. The public and juveniles shall have access to the procedures.
(2) Representatives of the media shall have access to the facility, consistent with the preservation of juvenile's privacy and the maintenance of order and security in the facility.
(3) All official statements to the news media, relating to facility administration policy, shall be made by the jailer only or his designee.
(a) Governmental agencies shall be provided with information pertinent only to their specific function and with the consent of the juvenile; and
(b) Private citizens shall only be provided with information supplied to the media.
(4) No information shall be released that is detrimental to another juvenile.

Section 4. Information Systems. The jailer shall establish and maintain an information system which shall comply with the requirements of this section.
(1) Facility information and juvenile records shall be retained in written form or within computer records.
(2) Facility information and juvenile records shall be stored in a secure manner so that they are protected from theft, tampering, and destruction. Written guidelines shall specify the length of time a juvenile record shall be maintained after an juvenile's release from custody and the conditions under which archives are maintained.
(3) A written report shall be made of all extraordinary or unusual occurrences within forty-eight (48) hours of the occurrence. This report shall be placed in the facility record. Extraordinary or unusual occurrences shall include but not be limited to:
(a) Death of an juvenile.
(b) Attempted suicide or suicide.
(c) Serious injury, whether accidental or self-inflicted.
(d) Attempted escape or escape from confinement.
(e) Fire.
(f) Riot.
(g) Battery, whether by a staff member or juvenile.
(h) Sexual assaults.
(i) Occurrence of contagious or infectious disease, or illness within the facility.
(j) Violent acts or behavior by either mental inquest detainees held under KRS Chapter 645 or juveniles known to be or suspected to be mentally ill or mentally retarded.
(4) All facilities shall keep a log of daily activity within the facility.
(5) Each facility shall maintain records on the types and hours of training completed by each employee and shall include verification of Justice Cabinet certification. A current and accurate personnel record shall be maintained on each employee. Each employee shall have access to his individual record.

Section 5. Juvenile Records. (1) The information required by 501 KAR 9:120 for admission and release shall be retained for each juvenile. Other information related in each juvenile's facility record shall include but not be limited to:
(a) Court orders.
(b) Personal property receipts.
(c) Infraction reports.
(d) Reports of disciplinary actions.

(e) Program involvement.
(f) Probation officer or case worker assigned.
(g) Unusual occurrences and in the case of death of a juvenile, disposition of the juvenile's property and remains.
(2) Medical records shall be maintained as required by 501 KAR 9:090.
(3) The jailer shall ensure that juvenile records are safeguarded in accordance with relevant federal and state laws and regulations.
(4) The jailer shall require that juveniles sign a "Release of Information Consent Form" prior to the release of information to individuals other than law enforcement or court officials. A copy of the signed consent form shall be maintained in the juvenile's record. This form shall include but not be limited to:
(a) Name of person, agency or organization requesting information.
(b) Name of facility releasing information.
(c) Specific information to be disclosed.
(d) Purpose of the information.
(e) Date consent form is signed.
(f) Signature of juvenile.
(g) Signature of employee witnessing the juvenile's signature.
(5) Juvenile facility records shall be kept separate from adult facility records and shall be made available for examination only as provided in KRS 610.330. Upon an order of expungement, the jailer shall seal the records and the juvenile's detention shall be deemed never to have occurred.
(6) All facility records maintained on mental inquest detainees held under KRS Chapter 645 shall be kept separate from any other facility records. Mental inquest records are confidential and shall be made available for examination only as provided in KRS 202A.091. Upon an order of expungement pursuant to KRS 202A.091(2), the jailer shall seal the records and the mental inquest detainee's stay in the facility shall be deemed never to have occurred.

JOHN T. WIGGINTON, Secretary
APPROVED BY AGENCY: November 15, 1990
FILED WITH LRC: November 15, 1990 at noon
PUBLIC HEARING: A public hearing on this regulation has been scheduled for December 21, 1990, at 9 a.m., in the State Office Building Auditorium. Those interested in attending this hearing shall notify in writing: Barbara Jones, Office of General Counsel, Second Floor, State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Barbara Jones
(1) Type and number of entities affected: 2,912 employees of the Corrections Cabinet, 7,518 inmates, 12,094 parolees and probationers, and all visitors to state correctional institutions.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None - all of the costs involved with the implementation of the regulations are included in the operational budget.
2. Continuing costs or savings: Same as 2(a)1.
3. Additional factors increasing or decreasing costs: Same as 2(a)1.
(b) Reporting and paperwork requirements: Monthly submission of policy revisions.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. All policies are administered in a uniform manner.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of School Administration and Finance

702 KAR 1:121. Repeal of 702 KAR 1:120, School board member educational qualifications.

RELATES TO: KRS 160.180
STATUTORY AUTHORITY: KRS 156.031, 156.070
NECESSITY AND FUNCTION: KRS 160.180 now specifically requires that all new school board members elected after July 13, 1990, shall have completed at least the 12th grade or have a GED certificate, so this regulation is no longer necessary.

Section 1. 702 KAR 1:120, School board member educational qualifications, is hereby repealed.

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: November 14, 1990
FILED WITH LRC: November 15, 1990 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: All local school board members elected after July, 1990.
(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: No additional requirements.
(2) Effects on the promulgating administrative body: None
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: Regulatory language now adopted by statute.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: KRS 160.180 overlaps and duplicates, hence the repeal of 702 KAR 1:120.
(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. Repeal of unnecessary regulation now mirrored by statute.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of School Administration and Finance

702 KAR 3:240. School council funding formula.

RELATES TO: KRS 160.345
STATUTORY AUTHORITY: KRS 156.070, 160.345
NECESSITY AND FUNCTION: The State Board for Elementary and Secondary Education is directed by KRS 160.345 to adopt by administrative regulation, upon recommendation of the chief state school officer, a formula by which school district funds are allocated to each school council. This regulation implements that duty.

Section 1. (1) Definitions, in accordance with accounting handbooks and account codes, for "instructional supplies, materials and equipment" include, but are not limited to, the following:
(a) Library books - Codes: 251.01, 251.04, 252.01, 252.04;
(b) Periodicals and newspapers - Codes: 253.01, 253.04, 254.01, 254.04;
(c) Library supplies - Codes: 255.01, 255.03, 256.01, 256.03;
(d) Audio visual material and equipment - Codes: 257.01, 257.04, 258.01, 258.04;
(e) Supplementary books - Codes: 263.01, 263.04, 264.01, 264.04;
(f) Teaching supplies to include paper products - Codes: 265.01, 265.02, 266.01, 266.02;
(g) Textbooks other than state funded - Code: 268;
(h) Instructional equipment other than computer laboratories - Codes: 231, 741.01, 871.01, 1272; and
(i) Instructional travel (other than instructional personnel coded in Code 213) - Code: 267.
(2) Items not to be considered as an expenditure for the above purposes are technology related expenditures for computer laboratories and the initial inventory of a new school plant.

Section 2. The local school district board of education shall appropriate within the district budget in kindergarten through the 12th grade an amount not less than seventy-five (75) dollars per child enrolled (except kindergarten which shall be based on full-time equivalent enrollment), based upon previous end of year enrollment, in each school for the purposes of instructional materials, supplies and equipment. The school-based council shall determine the expenditure of these funds in each of the schools with councils.

Section 3. In schools where school-based councils do not exist, the central administration shall expend the seventy-five (75) dollars required for each child enrolled.

Section 4. Effective with the effective date of this regulation, school-based councils, for purposes of determining expenditures, shall be operational on or before May 1 preceding the school year or by a date agreed upon between the local board of education and the school-based council.

Section 5. This regulation shall be effective July 1, 1991, except as specifically designated otherwise.

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: November 14, 1990
FILED WITH LRC: November 15, 1990 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: Ron Moubray
(1) Type and number of entities affected:
(a) Direct and indirect costs or savings to those affected:
1. First year: Requires the expenditures of $45 million by local school districts for instructional supplies, materials and equipment, an increase of $36 million over previous requirements.
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:
(a) Direct and indirect costs or savings: None - Funding is included in Support Education Excellence in Kentucky funding program.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: No change.
(3) Assessment of anticipated effect on state and local revenues:
(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:
(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. Applies equally to all districts.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Instruction

704 KAR 3:266. Repeal of 704 KAR 3:265, nutrition education and training plan.

RELATES TO: KRS 156.031, 156.035
STATUTORY AUTHORITY: KRS 156.035, 156.070
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 KRS 156.035 gives the State Board for Elementary and Secondary Education the authority to implement federal assistance acts. A Nutrition Education and Training Plan is necessary to receive applicable federal funds, but such is not regulatory in nature, so this regulation is no longer necessary.

Section 1. 704 KAR 3:265, Nutrition education and training plan, is hereby repealed.

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: November 14, 1990
FILED WITH LRC: November 15, 1990 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: Paul McElwain
(1) Type and number of entities affected: State Department of Education.
(a) Direct and indirect costs or savings to those affected: Savings of approximately 5 hours required to put item on board agenda and meet legislative requirements.
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: Noted above.
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. Only Department of Education affected.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Instruction

704 KAR 7:011. Repeal of 704 KAR 7:010, 704 KAR 7:020, 704 KAR 7:030, and 704 KAR 7:040.

RELATES TO: KRS 156.010, 156.016, 156.031, 156.035, 157.360
STATUTORY AUTHORITY: KRS 156.031, 156.035, 156.070, 157.320
NECESSITY AND FUNCTION: KRS 156.010 and 156.016 set forth the organization of the Department of Education and that such can be changed by the Commissioner of Education, effective July 1, 1991; 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 KRS 156.035 gives the State Board for Elementary and Secondary Education authority to implement state and federal funding statutes; KRS 156.070 and 157.360 no longer tie specific state funding to guidance counselor units. Administrative regulation 704 KAR 7:010 deals solely with an internal allocation of duties within the Department of Education; 704 KAR 7:020 and 704 KAR 7:030 deal with funding of counselor units, which is no longer applicable under KRS 157.360; and, relative to 704 KAR 7:040, any federal funds allocated to the state for guidance and counseling are already regulated under federal law and local plans for utilization of such funds. None of these regulations are any longer necessary.

Section 1. 704 KAR 7:010, Guidance counseling services; 704 KAR 7:020, Counselor criteria and duties; 704 KAR 7:030, Counselor units; and 704 KAR 7:040, Federal funds, are hereby repealed.

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: November 14, 1990
FILED WITH LRC: November 15, 1990 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: Angela Wilkins
(1) Type and number of entities affected:All Kentucky public elementary, middle, and secondary schools will be affected.
(a) Direct and indirect costs or savings to those affected: Counselor duties are no longer specified by regulation, and they no longer must develop written guidance plans and evaluations each year.
1. First year: Counselors and principals will have more time to do other duties.
2. Continuing costs or savings: N/A
3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A
(b) Reporting and paperwork requirements: Local school buildings will no longer be required to submit to the department yearly guidance plans and evaluations.
(2) Effects on the promulgating administrative body: N/A
(a) Direct and indirect costs or savings: N/A
1. First year: N/A
2. Continuing costs or savings: N/A
3. Additional factors increasing or decreasing costs: N/A
(b) Reporting and paperwork requirements: Eliminating the required yearly written guidance plans and evaluations from every public school in Kentucky.
(3) Assessment of anticipated effect on state and local revenues: N/A
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Proposed amendment 704 KAR 20:330 retains requirements for endorsement for individual intellectual assessment that was in 704 KAR 7:020.
(a) Necessity of proposed regulation if in conflict: N/A
(b) If in conflict, was effort made to harmonize the proposed administrative regulation

with conflicting provisions: N/A
(6) Any additional information or comments: None of the regulations proposed for repeal are necessary any longer, due to the Kentucky Education Reform Act. Also, KRS 156.070 and 157.360 no longer tie specific state funding to guidance counselor units.
TIERING: Was tiering applied? No

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Instruction

704 KAR 7:055. Corporal punishment of pupils.

RELATES TO: KRS 156.160, 158.6451
STATUTORY AUTHORITY: KRS 156.070, 156.160
NECESSITY AND FUNCTION: KRS 156.160 gives the State Board for Elementary and Secondary Education the authority to promulgate regulations deemed necessary or advisable for the protection of the physical welfare and safety of school children and setting standards local school districts shall meet in student, program, services, and operational performance, with the latter to be tied to outcomes set forth in KRS 158.6451; such goals include an expectation of a high level of achievement by all students, students becoming self-sufficient individuals and responsible family and community members, reduction of physical and mental health barriers to learning, and successful transition to postschool life. Based upon findings that corporal punishment has significant negative effects upon the general health and welfare of school children and said goals, all of which outweigh any positive aspects of its ability to actually control conduct and encourage disciplined school environment, the state board believes that corporal punishment should be banned in all public schools in the state.

Section 1. "Corporal punishment" for the purpose of this regulation shall be defined as the deliberate infliction of physical pain by any means upon the whole or any part of a student's body as a penalty or punishment for student misbehavior.

Section 2. (1) Effective July 1, 1991, no person employed or engaged by any public elementary or secondary educational system within this state shall inflict or cause to be inflicted corporal punishment or bodily pain upon a pupil attending any school or institution within such educational system; provided, however, that any such person may, within the scope of his employment, use and apply such amounts of physical restraint as may be reasonable and necessary to protect oneself, the pupil, or others from physical injury, to obtain possession of a weapon or other dangerous objects within control of the pupil, or to protect property from serious harm.
(2) Every resolution, bylaw, rule, ordinance, or other act of authority permitting or authorizing corporal punishment or bodily pain to be inflicted upon a pupil attending a public elementary or secondary school or educational institution, except as allowable under subsection (1) of this section, shall be void.

Section 3. The Department of Education shall, no later than the effective date of this regulation, begin to provide technical assistance, resources, and information on alternatives to corporal punishment to local public school districts that need help in identifying and establishing suitable alternatives to the use of corporal punishment, and in establishing local board policy.

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: November 14, 1990
FILED WITH LRC: November 15, 1990 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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 Gary Steinhilber
(1) Type and number of entities affected: 1,366 public schools in 176 school districts.
(a) Direct and indirect costs or savings to those affected:
1. First year: May be in-service costs to some districts in training staff for alternatives to corporal punishment.
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition): The elimination of corporal punishment could result in improved attendance and reduced dropout rates - resulting in savings for schools.
(b) Reporting and paperwork requirements:
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: May during the first year require staff time and resources to help LEAs in developing alternatives to corporal punishment.
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: LEAs will send revised discipline code to KDE.
(3) Assessment of anticipated effect on state and local revenues: N/A
(4) Assessment of alternative methods; reasons why alternatives were rejected: Statewide task force considered issue - came to unanimous vote that this was the best approach.
(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. Regulation will cover all public school students.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Secondary Vocational Education

705 KAR 3:140. Area center or public high school, standards for department of.

RELATES TO: KRS 151B.025, 156.031, 156.033
STATUTORY AUTHORITY: KRS 156.031, 156.033, 156.070
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 151B.025 transfers authority for state-operated area vocational education centers, except for program standards, to the Department of Adult and Technical Education, Workforce Development Cabinet; and KRS 156.033, by necessary implication, leaves authority for establishing priorities for, and approval of, construction of facilities for local district-operated area centers with the chief state school officer and the State Board for Elementary and Secondary Education. This regulation establishes minimum standards for the maintenance by a local school district of an area vocational education school as a department of a public high school or an area vocational education center.

Section 1. A department of a public high school or area vocational education center may be established when the following standards are met:
(1) The facility shall be used exclusively or principally for providing vocational education in no less than five (5) different occupational fields to persons who are available for study in preparation for entering the labor market.
(2) The facility shall provide the vocational preparation component of the educational program for a minimum of 180 high school students.
(3) Each vocational education program offered in the facility shall meet the minimum state requirements for teachers, curriculum, and equipment and be approved by the chief state school officer.
(4) For a department constructed as a separate facility to serve two (2) or more high schools in a single local school district, a department constructed as a separate facility to serve two (2) or more high schools in two (2) or more local school districts, and a department constructed as a separate facility to serve only one (1) high school for a single local school district, the administrator of the center shall hold the certificate for administration, supervision, and coordination of vocational education. For a department constructed as an addition to the high school facility which is owned and operated by a single local school district for the benefit of only one (1) high school, the assistant high school principal or vocational education department head may be charged with supervision of the total vocational program; but he or she shall have the administration, supervision, and coordination certificate for vocational education.
(5) The facility shall be available to all residents of the area designated and approved by the State Board for Elementary and Secondary Education.
(6) The center shall be available, on a need basis and with approval of the State Board for Adult and Technical Education, to offer programs for postsecondary students and adults within the designated area.
(7) A minimum of five (5) acres of usable land shall be provided for building, expansion, and parking.

Section 2. The maintenance of area centers shall be provided as follows:
(1) Maintenance of vocational education facilities owned by the local boards of education shall be the responsibility of the local boards of education and shall be accomplished from funds designated by the State Board for Elementary and Secondary Education. Maintenance shall be in accordance with current and approved plans and specifications filed in the office of the chief state school officer as specified by contractual agreements with the state board or its designated representatives.
(2) Maintenance of facilities for secondary vocational programs owned by the state and operated by the Department of Adult and Technical Education, shall be accomplished from approved funds designated in accordance with current and approved plans and specifications on file in the office of the chief state school officer and the Division of Engineering, Finance and Administration Cabinet.

Section 3. Requirements, procedures, and responsibilities in relation to construction of area vocational education schools shall be as follows:
(1) Any local educational agency preparing to construct an area vocational education school shall submit to the chief state school officer an appropriate application with proper explanation and supporting evidence to justify the need. Each local educational agency shall complete the necessary surveys to determine the needs, interests, and abilities of the potential enrollees, the demands of the labor market, and the facilities that can be provided.
(2) The State Board for Elementary and Secondary Education shall approve applications for area vocational education schools before any financial resources available to the state board shall be used for construction of a facility. Any local educational agency using local funds for the construction of an area vocational education school shall submit an application for program approval of the facility if operating

expenses are anticipated from the financial resources available to the state board.

(3) Facilities which are constructed exclusively or principally for providing vocational education in less than the minimum number of vocational preparation programs as required in regulations pertaining to minimum standards for establishing such facilities shall be constructed without federal financial assistance. Such facilities do not constitute area vocational education schools which are eligible for federal financing support of construction costs. The programs to be offered in the facilities shall be approved under normal procedures for operating vocational programs by the local educational agency.

Section 4. Procedures for determining the number of secondary school students eligible for enrollment in state and locally operated area vocational education centers when more than one (1) local school district enrolls students in such a facility shall be as follows:

(1) The enrollment quota for eligible secondary school students, fifteen (15) years of age and older, for each cooperating local school district utilizing the facilities of an area vocational education center shall be determined on a pro rata basis. Quotas shall be determined by the following factors:

(a) The ratio of secondary school students who are enrolled in grades nine (9) through twelve (12) in a given school district to the total number of students enrolled in grades nine (9) through twelve (12) in all of the cooperating local school districts;

(b) The total enrollment capacity of the area vocational education center during the regular school day; and

(c) The total capacity of each vocational education program offered in the area vocational education center during the regular school day.

(2) Each participating local school district shall receive its equitable quota of secondary school students to attend the center and to enroll in the different programs offered in the center. If a given local school district does not fill its quota, the enrollment vacancies shall be reallocated to the other cooperating local school districts on the same basis that the original quotas were established.

(3) Quotas shall be determined by the chief state school officer or the applicable regional director of vocational education and the coordinator of the area vocational education center working in cooperation with the official steering committee appointed for the area vocational education center. Quota calculations shall be submitted to the chief state school officer for consideration and approval.

(4) The State Board for Elementary and Secondary Education shall annually submit to the State Board for Adult and Technical Education a report on vocational education in these high schools.

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: November 14, 1990

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

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: Melissa Briscoe

(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: 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: N/A

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: The provisions of the KERA mandates the changes set forth in these amendments for all school districts.

TIERING: Was tiering applied? No

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Secondary Vocational Education

705 KAR 4:230. General program standards for secondary vocational education programs.

RELATES TO: KRS 151B.025, 156.031
STATUTORY AUTHORITY: KRS 156.031, 156.070
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 KRS 151B.025 retains with the State Board for Elementary and Secondary Education the authority to prescribe program standards for area vocational education centers. This regulation establishes those standards for secondary vocational education essential for compliance with federal vocational education acts.

Section 1. Secondary vocational education programs shall be designed to serve students enrolled in the following middle school and secondary program areas: agricultural education, business education, health and personal services, home economics, industrial/technology education, marketing education, special vocational programs, career exploration, and special applied academic area for vocational students. Instructional programs shall not discriminate on the basis of race, color, national origin, age, religion, marital status, sex, or handicap, in violation of state or federal statutes.

Section 2. Objectives and instruction shall be designed to:
(1) Assist individuals in the career development process of career awareness and in-depth career exploration.
(2) Prepare individuals for enrollment in advanced or highly skilled vocational and technical education programs or entrance into college.
(3) Prepare individuals for gainful employment in recognized occupations and in new or emerging occupations.
(4) Assist individuals in obtaining computer literacy skills.

Section 3. The content of the instruction in secondary vocational programs shall:
(1) Be based on the skills, attitudes, and knowledge required to achieve the objectives of the instruction and include a planned sequence of the essentials of education or experience necessary for the individual to achieve the objective;
(2) Be developed and conducted in consultation with employers and other individuals having skills and substantiated knowledge of the occupation or the occupational fields included in the instruction;
(3) Include the most up-to-date knowledge and skills necessary for competencies required to meet the objectives of such instruction; and
(4) Be sufficiently extensive in duration and intensive within a scheduled unit of time to enable students to achieve the objectives of the instruction.

Section 4. Students enrolled in a specific occupational program shall earn a minimum of four (4) credits in the occupational area and successfully obtain the competencies identified for a major DOT in the specific occupational preparation program in order to receive a standardized competency certificate.

Section 5. Secondary vocational programs shall be designed to accommodate students with special learning needs - i.e., the disadvantaged, the handicapped and individuals with limited English proficiency. Special programming shall conform to the requirements outlined in the "Program of Studies for Kentucky Schools".

Section 6. Secondary vocational education programs shall provide a variety of learning experiences. Programs in grades six (6) through eight (8) shall be designed to allow students to become aware of and explore clusters of occupations. Programs in grades nine (9) and twelve (12) shall provide in-depth exploration, specialized skill development or prepare individuals for advanced education. Students enrolled in public or private schools shall be permitted to enroll in a state-operated vocational program consistent with that school district's enrollment quota.

Section 7. Vocational preparation programs shall provide a curriculum of sufficient length to permit students to secure entry level skills in the occupation for which they are training. The curriculum shall conform to the requirements in the latest version of the "Kentucky Program of Studies".

Section 8. Recognized vocational student organizations shall be an integral part of the instructional program provided and shall be supervised by qualified vocational education personnel. All students shall be provided an opportunity to participate in leadership development activities.

Section 9. Instructional and administrative personnel shall meet the teacher certification requirements as specified by the Education Professional Standards Board.

Section 10. An annual plan for the next school year along with an application for funds shall be submitted by each secondary program by April 15. This shall be submitted directly to the Department of Education for review and approval.

Section 11. Each vocational program area shall have an active program advisory committee to assist in planning, implementing, and evaluating programs.

Section 12. Requests for exceptions to any standards for vocational instructional programs shall be submitted in writing by the local educational agency recommended by the appropriate unit director and approved by the chief state school officer. Exceptions shall be limited to experimental programs, innovative programs, unusual cases and shall be approved on an individual and annual basis.

Section 13. (1) The maximum number of students per class shall be based on the class setting. For a classroom setting, the maximum enrollment

shall be thirty-one (31); for a laboratory or shop setting, the maximum enrollment shall be twenty-seven (27). The number of students enrolled in a class cannot exceed the number of work stations available in the facility. For a supervised out-of-school setting, the maximum enrollment shall be twenty-seven (27). Approval by the chief state school officer is required for justification of exceptions, and such shall be granted only for good cause shown.

(2) There shall be at least one (1) class period for supervision of cooperative vocational education work experience program, based on the number of students enrolled in the program, and each participating student shall have a training agreement on file with the employer.

(3) Each program shall provide classrooms, laboratories, and other facilities including instructional equipment, supplies, teaching aids, and other materials in sufficient quantity and quality to meet the objectives of the vocational instruction. Equipment used in vocational education programs shall be similar to that used in business and industry. An inventory of all equipment with an original purchase price of $300 or more shall be maintained by the local school district. The facilities for each program shall be of adequate size to accommodate the activities and the number of work stations unique to the program. The facility shall be approved by the chief state school officer.

Section 14. At least once every five (5) years, each vocational program shall be evaluated in accordance with the requirements of the Carl Perkins Vocational and Applied Technology Education Act, the Department of Adult and Technical Education, the local education agency, and the Kentucky Department of Education. The evaluation shall be used to determine the effectiveness of the program in terms of its objectives and shall include annual follow-up data as well as annual enrollment reports. An audit of the utilization of federal and state funds shall be conducted to assure that such are meeting the requirements for each approved vocational education program.

Section 15. Programs offered by any eligible recipient of federal funds shall be disapproved for such if program requirements and provisions of the Kentucky State Plan for Vocational Technical Education are not met.

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: November 14, 1990

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

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: Melissa Briscoe

(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: 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: N/A

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: The provisions of the KERA mandates the changes set forth in these amendments for all school districts.

TIERING: Was tiering applied? No. This regulation applies equally to all school districts.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Resource Management

708 KAR 1:001. Repeal of 708 KAR Chapter 1.

RELATES TO: KRS 42.024, 156.031

STATUTORY AUTHORITY: KRS 156.031, 156.070

NECESSITY AND FUNCTION: KRS 42.024 now gives the Finance and Administration Cabinet's Division of Purchases exclusive authority over federal surplus property and gives the Secretary of the Finance and Administration Cabinet the

authority to promulgate administrative regulations with respect to such; and KRS 156.031 gives the State Board for Elementary and Secondary Education authority to have administrative regulations over programs and services operated within the Department of Education. Because of such transfer of jurisdiction, 708 KAR Chapter 1 is no longer necessary.

Section 1. 708 KAR 1:010, Definition of eligible entities; 708 KAR 1:020, Authority for organizing and operating; 708 KAR 1:030, Certification of eligibles; 708 KAR 1:040, Donee requirements on use and disposal of federal surplus personal property; 708 KAR 1:050, Donee requirements on use and disposal of federal excess property; 708 KAR 1:060, Nonfederal excess, surplus of purchased property, requirements on use and disposal; 708 KAR 1:070, Acquisition from division; 708 KAR 1:080, Service charges, funds and accounting procedures; 708 KAR 1:090, Director of division; duties; 708 KAR 1:100, Property covered by P.L. 152; authority for acquisition; and 708 KAR 1:110, State plan of operation for surplus property, are hereby repealed.

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: November 14, 1990

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

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 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 December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at 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: None (jurisdiction for regulation transferred).

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

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body: 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: Unknown

(4) Assessment of alternative methods; reasons why alternatives were rejected: None - no statutory authority for regulations.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: KRS 42.024

(a) Necessity of proposed regulation if in conflict: To repeal regulations subject matter of which under statutory authority of Finance Cabinet.

(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. Repeal of existing regulations.

EDUCATION AND HUMANITIES CABINET
Department for Libraries and Archives

725 KAR 1:060. Standards for documents presented for recording.

RELATES TO: KRS Chapter 171

STATUTORY AUTHORITY: KRS 171.450(1)(c)2

NECESSITY AND FUNCTION: KRS 171.450(1)(c) provides that the Department for Libraries and Archives shall establish standards and procedures for recording, managing, and preserving public records and for the reproduction of public records by photographic or microphotographic processes. KRS 171.450(2) requires the department to enforce the provisions of KRS 171.410 to 171.740 by appropriate rules and regulations. The advent of recording permanently valuable documents by migrographic, automated, electronic, or optical processes in public offices of record (herein defined as all county clerk's offices and the Office of the Secretary of State) makes it imperative that the original paper document presented for purposes of recording, permanent retention, preservation, and access meet strict standards for uniform print size, clarity, and document size.

Section 1. Printed characters on all documents presented and accepted for recording in a public office of record must be of twelve (12) pitch type size or larger.

Section 2. All printed documents, with the exception of maps, plats, and drawings, presented and accepted for recording in a public office of record must be eight and one-half (8 1/2) inches by eleven (11) inches in size.

Section 3. All printed characters on documents presented and accepted for recording in a public office of record shall be printed with black ink on white background and be of near-letter quality.

Section 4. All printed documents presented for recording in a public office of record shall be printed on twenty (20) pound bond paper or heavier.

Section 5. Recordable holographic documents are exempted from the requirements in Sections 1 through 4 of this regulation.

JAMES A. NELSON, State Librarian & Commissioner
APPROVED BY AGENCY: October 17, 1990
FILED WITH LRC: November 13, 1990 at 10 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 21, 1990 at 10 a.m. at the Kentucky Department for Libraries and Archives Board Room. Individuals interested in being heard at this hearing shall notify this agency in writing by December 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 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 made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to: Richard N. Belding, State Archivist and Records Administrator, Department for Libraries and Archives, Public Records Division, 300 Coffee Tree Road, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Richard Belding
(1) Type and number of entities affected: All state and local offices of record, including all 120 county clerks' offices and the Office of the Secretary of State, as well as all individuals, companies, and agencies presenting a document for recording will be affected. This regulation will ensure that the office of record will receive a legible instrument to record, to which it can provide public access and from which high quality duplicates can be made. It will also result in more efficient use of space, filing equipment, reproduction equipment, and supplies. Individuals, companies, or agencies presenting legal instruments for recording will be assured that the instrument can be read and reproduced legibly.
(a) Direct and indirect costs or savings to those affected:
1. First year: Offices of record will have no costs the first year since they can continue to use the larger books to record. Savings will be realized when buying new supplies, such as book binders, recording paper, and filing equipment due to the reduced size. An increase in total recording fees collected may result due to the increased number of pages per document. Entities presenting documents for recording will bear the one-time cost of redesigning preprinted forms and a possible increase in recording fees, due to increased numbers of document pages. The county clerks' offices are authorized by KRS 64.012 to charge an additional $1.50 for each page over three pages per document.
2. Continuing costs or savings: Offices of record will continue to realize savings in space, time, supplies, equipment, and in providing access and copying services to users of the record. Currently, it is extremely difficult to provide a legible copy of documents to requestors, especially when copying from a microform. The time and expense currently wasted when trying to produce a legible copy from an illegible form will be eliminated. Standardization to 8 1/2" x 11" size and 20 lb. bond paper will also increase the speed of input to microform cameras or scanning devices by allowing the use of automated feeders and reducing document preparation time. Exact savings to offices of record are not possible to calculate. Entities presenting documents for recording will have no continuing costs, except a possible increase in filing fees. Many may realize the same kinds of savings described for offices of record. For instance, law firms are currently required to present court documents in standard letter size (8 1/2" x 11"), but continue to use larger sizes for recorded instruments in the county clerk's office. This regulation would allow standardization of filing equipment and supplies and a subsequent reduction of office space needed.
3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors increasing or decreasing costs.
(b) Reporting and paperwork requirements: There are no additional reporting and paperwork requirements.
(2) Effects on the promulgating administrative body: This regulation will not have an immediate direct economic effect on the promulgating body. However, the mission of this agency is to assist state and local agencies to improve the management, preservation and accessibility of their public records. This regulation will have a direct, positive impact on this goal by assuring the legibility and continued accessibility of recorded instruments and providing a more manageable page format.
(a) Direct and indirect costs or savings: There will be no direct or indirect costs or savings to the promulgating body.
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: There will be no reporting or paperwork requirements associated with this regulation.
(3) Assessment of anticipated effect on state and local revenues: A small increase in total recording fees collected by offices of record is anticipated since county clerks are authorized to charge an additional $1.50 for each page over three per document.
(4) Assessment of alternative methods; reasons why alternatives were rejected: There are no alternative methods available. The only way standardization and quality of recorded instruments can be ensured is through administrative regulation.
(5) Identify any statute, administrative

regulation or government policy which may be in conflict, overlapping, or duplication: This regulation does not conflict with existing statutes, administrative regulations or government policies.

(a) Necessity of proposed regulation if in conflict: There is no conflict.

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

(6) Any additional information or comments: Documents presented for recording in county clerk's offices are often printed on colored paper of various sizes and weights and very often contain extremely small print. This makes it very difficult for the clerk to provide a legible record to users. The problem is compounded when the documents are reproduced mechanically, especially when microfilmed or digitally scanned. The benefits to the clerk and to all users of recorded documents resulting from the implementation of this administrative regulation far outweigh any inconvenience entities may experience in redesigning preprinted forms currently being used.

TIERING: Was tiering applied? No. This administrative regulation applies to all individuals or entities presenting a document for recording. Statutes describing the recording process do not make a distinction among entities.

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___ (If yes, complete questions 2-4)

2. State what unit, part or division of local government this administrative regulation will affect. The regulation will affect the county clerk's office and any unit of local government creating information in a paper format that will be recorded in a public office of record.

3. State the aspect or service of local government to which this administrative regulation relates. The regulation applies directly to county clerks, in providing them with standards for documents they receive for recording. It applies to any other service of local government which results in the creation of documents intended for recording in a public office of record.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): Revenues, in the form of recording and duplication fees will increase as a result of this regulation. Standardization to an 8 1/2" x 11" page and 12 pitch type will result in more pages per document. If the document contains more than three pages, the county clerk is authorized by KRS 64.012 to charge an additional $1.50 per page. It is not possible to determine the exact dollar impact this will have on increased revenues the first year.

Expenditures (+/-): Local government expenditures will be decreased the first year, and thereafter, in a number of areas. Supply costs, such as copy paper, binders, books and cabinets will be less due to the smaller standard size paper. Duplicating costs will decrease since this administrative regulation will ensure a legible copy is produced on the first attempt.

Other Explanation: The purpose of this administrative regulation is to ensure that documents presented for public recording are legible, of uniform size, and can be reproduced easily. Implementation of this administrative regulation will have some small fiscal impact on the county clerk's offices, but exact amounts are impossible to project due to a number of variables, such as, recording activity, number of words per document and design of documents presented for recording.

CABINET FOR HUMAN RESOURCES
Department for Health Services

902 KAR 2:150. Human immunodeficiency virus education, initial professional licensure.

RELATES TO: KRS 211.180, 214.020, 214.615
STATUTORY AUTHORITY: KRS 194.050, 211.090
NECESSITY AND FUNCTION: KRS 214.615 provides that the Cabinet for Human Resources shall require that an educational course approved by the cabinet on the transmission, control, treatment and prevention of human immunodeficiency virus infection and AIDS be completed by prospective licensees under KRS Chapters 311, 312, 313, 314, 315, 320, 327, 333, 335.

Section 1. The educational course approved by the cabinet for initial licensure shall be either of the following:

(1) Any one of those courses found on the official listing of the AIDS education program, CHR, which is designated as appropriate for licensed professionals. Courses on the list shall be marked either as appropriate for all licensed professionals or designated as appropriate only for one (1) or more professions. Licensure boards, universities providing education to the professions under KRS chapters listed in the Necessity and Function of this regulation, and state and national professional organizations wishing to add courses to the list shall proffer them for approval by submitting, to the AIDS education program, material including the title, style, (correspondence, in-person, video or other) and brief description of the course. A course-description brochure will suffice to meet this requirement; or

(2) Any program or course having received approval of a national accrediting body.

Section 2. All courses shall include:

(1) Basic medical and epidemiologic information about HIV and the diseases and conditions it can cause;

(2) Information regarding the methods of transmission of HIV, methods of prevention of HIV infection, and currently recognized methods of medical treatment for HIV infection;

(3) Basic instructions for management of HIV infection both in the health care workplace and in other commonly encountered working environments. These instructions shall be consistent with federal occupational safety and health standards;

(4) A brief review of the moral, ethical, and legal issues surrounding HIV infection;
(5) Instruction regarding appropriate attitudes and behaviors toward those persons infected or possibly infected with HIV;
(6) Instruction regarding the need for comprehensive human services for those with HIV infection.

Section 3. The minimum length of the course for each profession shall be set by its individual licensure board.

Section 4. Any course approved by the cabinet shall have been updated within no more than two (2) years of the date that it is taken by the licensee to ensure that the course material reflects contemporary scientific findings concerning HIV infection.

Section 5. The licensure boards shall apply standards regarding the qualifications of course providers and the appropriateness of specific material to the given profession. State and national quality standards shall be used, where they exist.

Section 6. If CHR suspects a deficiency in the conduct of an approved course which is not being satisfactorily addressed by one (1) or more licensure boards, or if a licensure board so requests, CHR may inspect that course and may charge the vendors a fee not to exceed seventy-five (75) dollars for the inspection.

Section 7. Each licensee shall certify either:
(1) The completion of an approved course, on a form created and distributed by CHR; or
(2) Reasonable cause for having not taken an approved course, or an affidavit created and distributed by CHR, to his individual licensure board, as a condition of receiving a professional license under KRS 214.615. An affidavit of reasonable cause shall be valid for no more than six (6) months and shall be accepted from a given licensee only once. If a licensee has graduated from a professional school whose AIDS education curriculum is approved under Section 1(1) or (2) of this regulation within two (2) years (five (5) years for a physician, if he has been in a residency program throughout the interim), he shall be deemed to have met the requirement of this subsection without submitting a form.

Section 8. Each licensure board shall submit to CHR by December 31 of each year, beginning in 1991, a report stating the total number of persons applying for licensure in the past twelve (12) months; and of those, the number meeting the AIDS education requirement, the number having submitted an affidavit of reasonable cause, and the number of licenses denied for failure to meet the requirement. Boards shall also report the number of licenses revoked because affidavits of reasonable cause have expired.

C. HERNANDEZ, M.D., Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: November 5, 1990
FILED WITH LRC: November 14, 1990 at 11 a.m.
PUBLIC HEARING: A public hearing on this regulation has been scheduled for December 27, 1990 at 9 a.m. in the Health Services Auditorium located on the first floor of the Health Services Building. However, this hearing will be cancelled unless interested persons notify the following office in writing by December 22, 1990, of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Reginald Finger
(1) Type and number of entities affected: Boards of licensure of 11 professions, and each applicant for initial licensure in these professions.
(a) Direct and indirect costs or savings to those affected:
1. First year: Applicants who have not received approved education prior to application will be required to complete a course and to pay the cost thereof. This will vary by profession.
2. Continuing costs or savings: Same as the first year.
3. Additional factors increasing or decreasing costs (note any effects upon competition): As each profession has established approved courses available to applicants, cost for courses shall decrease.
(b) Reporting and paperwork requirements: Applicants shall provide certificates to the board and the boards must report to CHR on an annual basis.
(2) Effects on the promulgating administrative body: The CHR AIDS education program is required to approve courses.
(a) Direct and indirect costs or savings: Direct costs to agency will be for necessary certificates and/or affidavits; the staff time for reviewing proffered courses for approval.
1. First year:
2. Continuing costs or savings: Certificate and affidavit costs will continue, however, staff time should be reduced as each profession has approved courses.
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: The program will be responsible for preparing the annual report to the General Assembly and maintenance of lists of approved courses.
(3) Assessment of anticipated effect on state and local revenues: N/A
(4) Assessment of alternative methods; reasons why alternatives were rejected: Statute specifically requires CHR to approve courses and to report to General Assembly.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. Statute requires all licensees in these professions to complete the educational requirement.

CABINET FOR HUMAN RESOURCES
Department for Health Services

902 KAR 2:160. Human immunodeficiency virus education, continuing education for professionals.

RELATES TO: KRS 211.180, 214.020, 214.610
STATUTORY AUTHORITY: KRS 194.050, 211.090
NECESSITY AND FUNCTION: KRS 214.610 provides that each licensee under KRS Chapters 311, 312, 313, 314, 315, 320, 327, 333, and 335 shall complete a Cabinet for Human Resources approved educational course as specified in the respective chapters on the transmission, control, treatment, and prevention of human immunodeficiency virus infection and AIDS for the first time by July 1, 1991 (July 1, 1992, for nursing and physical therapy) and thereafter as part of their periodic licensure renewal cycles.

Section 1. The educational course approved by the cabinet for continuing education shall be either of the following:
(1) Any one of those courses found on the official listing of the AIDS education program, CHR, which is designated as appropriate for licensed professionals. Courses on the list shall be marked either as appropriate for all licensed professionals or designated as appropriate only for one (1) or more professions. Licensure boards, universities providing education to the professions under KRS chapters listed in Necessity and Function of this regulation, and state and national professional organizations wishing to add courses to the list shall proffer them for approval by submitting, to the AIDS education program, material including the title, style (correspondence, in-person, video or other) and brief description of the course. A course-description brochure will suffice to meet this requirement; or
(2) Any program or course having received approval of a national accrediting body.

Section 2. All courses shall include:
(1) Basic medical and epidemiologic information about HIV and the diseases and conditions it can cause;
(2) Information regarding the methods of transmission of HIV, methods of prevention of HIV infection, and currently recognized methods of medical treatment for HIV infection;
(3) Basic instructions for management of HIV infection both in the health care workplace and in other commonly encountered working environments. These instructions shall be consistent with federal occupational safety and health standards;
(4) A brief review of the moral, ethical, and legal issues surrounding HIV infection;
(5) Instruction regarding appropriate attitudes and behaviors toward those persons infected or possibly infected with HIV;
(6) Instruction regarding the need for comprehensive human services for those with HIV infection.

Section 3. For professions with existing continuing education requirements, the minimum number of continuing education hours per certification cycle devoted to AIDS/HIV shall be set by the licensure board and shall be made part of the overall requirement (included within the total statutory number of hours, where those exist). For professions without the existing requirements, the minimum course length per certification cycle shall be two (2) hours.

Section 4. Any course approved by the cabinet shall have been updated within no more than two (2) years of the date that it is taken by the licensee to ensure that the course material reflects contemporary scientific findings concerning HIV infection.

Section 5. The licensure boards shall apply standards regarding the qualifications of course providers and the appropriateness of specific material to the given profession. State and national quality standards shall be used, where they exist.

Section 6. If CHR suspects a deficiency in the conduct of an approved course which is not being satisfactorily addressed by one (1) or more license boards, or a licensure board so requests, CHR may inspect that course and may charge the vendors a fee not to exceed seventy-five (75) dollars for the inspection.

Section 7. Each licensee shall certify to the board the completion of an approved course either:
(1) On a form created and distributed by CHR; or
(2) On the general continuing education form used by his licensure board, if one exists; or
(3) In the manner by which the boards currently audit continuing education requirements, as a condition of renewed licensure under KRS 214.610.

Section 8. Each licensure board (except nursing and physical therapy) shall, by August 1, 1991, submit an interim report to CHR stating the total number of licensees, as of July 1, and of that number, the number that had met the AIDS education requirement. Each licensure board shall submit to CHR by December 31 of each year, beginning in 1991 (except nursing and physical therapy, which will submit starting in 1992) a report stating the number of license renewals applied for during the year, the number or percent of applicants meeting the AIDS education requirement, and the number of licenses denied for failure to meet the requirement.

C. HERNANDEZ, M.D., Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: November 5, 1990
FILED WITH LRC: November 14, 1990 at 11 a.m.
PUBLIC HEARING: A public hearing on this regulation has been scheduled for December 27, 1990 at 9 a.m. in the Health Services Auditorium located on the first floor of the Health Services Building. However, this hearing will be cancelled unless interested persons notify the following office in writing by December 22, 1990, of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Reginald Finger
(1) Type and number of entities affected: 11

professional boards and approximately 75,000 licensees.

(a) Direct and indirect costs or savings to those affected: Costs to boards for promulgation of regulations to implement HB 425 and development of CE materials.

1. First year: Cost of completing approved HIV/AIDS education course by applicants.

2. Continuing costs or savings: Cost will continue for each licensing cycle.

3. Additional factors increasing or decreasing costs (note any effects upon competition): The frequency with which HIV information changes forcing course changes will increase course costs.

(b) Reporting and paperwork requirements: Boards must certify each applicant and report annually to CHR.

(2) Effects on the promulgating administrative body: The CHR AIDS education program must approve courses.

(a) Direct and indirect costs or savings:

1. First year: Direct costs will be forms the first and continuing years, staff costs will be minimal to review courses and to maintain lists of approved courses.

2. Continuing costs or savings: Same

3. Additional factors increasing or decreasing costs: Significant economics of scale can be achieved if AIDS knowledge base stabilizes and curricula content does not have to be changed frequently.

(b) Reporting and paperwork requirements: Maintain list of approved courses and report annually to the General Assembly the board's implementation and compliance progress.

(3) Assessment of anticipated effect on state and local revenues: N/A

(4) Assessment of alternative methods; reasons why alternatives were rejected: Statute specifically requires CHR approval.

(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. Statute requires all licensees in these professions to complete the educational requirement.

CABINET FOR HUMAN RESOURCES
Office of Inspector General

902 KAR 20:320. Psychiatric residential treatment facility operation and services.

RELATES TO: KRS 216B.010 to 216B.130, 216B.990

STATUTORY AUTHORITY: KRS 216B.042, 216B.105

NECESSITY AND FUNCTION: KRS 216B.042 and 216B.105 mandates that the Kentucky Cabinet for Human Resources regulate health facilities and services. This regulation provides minimum licensure requirements regarding the operation of and services provided in psychiatric residential treatment facilities.

Section 1. Definitions. (1) "Clinical privileges" means authorization by the governing body to provide certain resident care and treatment services in the facility specified by the governing body within well-defined limits, based on the individual's license, education, training, experience, competence, and judgment.

(2) "Direct-care staff" means residential or child-care workers who directly supervise residents.

(3) "Freestanding" means a completely detached and separate building, street access, telephone service, dining, and street address.

(4) "Governing body" means the individual, agency, partnership, or corporation, in which the ultimate responsibility and authority for the conduct of the facility is vested.

(5) "Holding" means forced positioning of a resident by staff without use of mechanical devices.

(6) "Licensure agency" means the Division for Licensing and Regulation in the Office of the Inspector General, Cabinet for Human Resources.

(7) "Mental health associate" is an individual with a minimum of a bachelor's degree in a mental health related field.

(8) "Professional staff" means a psychiatrist; a psychologist with Ph.D. or master's degree and autonomous functioning; a social worker with master's degree; a nurse with bachelor's degree and two (2) years' experience in a mental health setting; and other professionals from disciplines related to the treatment of mental illness, such as occupational, expressive, or recreational therapist, with a master's degree in that discipline from a program approved by the Kentucky Department of Education and specialized training or experience in the treatment of mental illness.

(9) "Psychiatric residential treatment facility" means a freestanding facility (other than a psychiatric inpatient hospital) with a maximum of sixteen (16) beds which provides inpatient psychiatric residential treatment to residents age six (6) to twenty-one (21) who are capable of self-preservation during an internal disaster.

(10) "Restraint" means the use of a mechanical device to involuntarily restrain movement of the whole or a portion of a resident's body as a means of controlling a resident's physical activities to protect the resident or others from injury or the use of intravenous, intramuscular, or subcutaneous administration of any pharmacologic or chemical agent to the resident with the sole or primary purpose of controlling or limiting the physical activities of the resident. Restraint is differentiated from mechanisms usually and customarily employed during medical, diagnostic, or surgical procedures.

(11) "Seclusion" means the involuntary confinement of a resident in a room, which the resident is physically prevented from leaving, for any period of time.

(12) "Special treatment procedures" means any procedure such as restraint or seclusion and holding which may have abuse potential or be life threatening.

(13) "Unusual treatment" means any procedure not readily accepted as a standard method of treatment by the relevant professional.

(14) "Home-like" means providing opportunities for adult-child communication, shared tasks, parent-child learning, congregate meals, and living group activities where day-to-day routines for all residents are planned, predictable and appropriate to the ages and levels of functioning of the residents.

(15) "Full-time equivalent (FTE)" for this regulation means one (1) employee working thirty-seven and one-half (37.5) hours per week or a combination of the hours worked by more than one (1) part-time employee totaling thirty-seven and one-half (37.5) hours per week.

Section 2. Applicability. (1) A certificate of need shall be required for all psychiatric residential treatment facilities.

(2) If a residential treatment facility is located on grounds shared by another licensed facility, the following shall apply:

(a) The residents of the residential treatment facility and the licensed facility with which it shares grounds shall not have any joint activities or interactions;

(b) The executive director and direct-care staff shall not serve both the licensed facility with which it shares grounds and the residential treatment facility;

(c) If the provisions of paragraph (a) of this subsection are met, the only services or components of the physical plant that may be shared are those related to housekeeping, maintenance, dietary and recreational facilities or grounds.

Section 3. Licensure. The psychiatric residential treatment facility shall comply with all the conditions for licensure contained in 902 KAR 20:008.

Section 4. Governing Body. Each facility shall have a governing body with overall authority and responsibility for the facility's operation.

(1) The governing body shall be a legally constituted entity in the Commonwealth of Kentucky by means of a charter, articles of incorporation, partnership agreement, franchise agreement or legislative or executive act.

(2) A facility that is part of a multifacility system or is operated by a government agency must have a written description of the system's administrative structure and lines of authority.

(3) The authority and responsibility of any person designated to function as the governing body must be specified in writing.

(4) If a business relationship exists between a governing body member(s) and the organization, there must be a conflict-of-interest policy that governs the member's participation in decisions influenced by the business interest.

(5) The responsibilities of the governing body shall be stated in writing and shall include at least the following:

(a) Adopting bylaws that describe how the governing body, through the executive director, shall develop policies and procedures and make sufficient resources available (e.g., funds, staff, equipment, supplies, and facilities) to assure that the facility is capable of providing appropriate and adequate services to residents.

(b) Overseeing the system of financial management and accountability.

(c) Adopting a program to monitor and evaluate the quality of all care provided and to appropriately address identified problems in care.

(d) Electing, appointing, or employing the executive director, clinical director, and other supervisors or administrators to direct the clinical and administrative activities of the facility, and defining the qualifications, authority, responsibility, and function of such positions.

(e) Establishing an organization table and establishing bylaws or rules and regulations or policies and procedures to guide the relationships between itself, the administrative staff, the direct-care staff, the professional staff, and the community. The bylaws or rules and regulations or policies and procedures must define the means by which the administrative, direct-care, and professional staffs cooperatively function, participate in the development of policies concerning program management and resident care, and report to the governing body. The bylaws or rules and regulations or policies and procedures must be reviewed at least every two (2) years and revised as necessary.

(f) Approving appointments to the professional staff and granting or revising clinical privileges upon the documented recommendation of the clinical director.

(6) The governing body will meet as a whole at least quarterly and keep records that demonstrate the ongoing discharge of its responsibilities.

(7) When a facility is a component of a larger organization, the facility staff, subject to the overall authority of the governing body, shall be given the necessary authority to plan, organize, and operate the program.

Section 5. Executive Director. (1) The executive director shall be employed by the governing body and shall be responsible for the day-to-day management and ongoing direction of the facility's program. In the event of the executive director's absence, he must designate a person who will be responsible for the day-to-day management of the facility.

(2) The executive director shall be qualified by training and experience to direct a treatment program for children and adolescents with emotional problems. Minimum qualifications shall be a master's degree in psychology, social work, nursing, or education with appropriate licenses. The executive director must have two (2) years experience in services to children or adolescents including administrative responsibility in an organization for children and adolescents; three (3) professional references; two (2) personal references; and a police record check. If there is a prior crime conviction or pleas of guilty pursuant to KRS 17.165 or a Class A felony, the applicant shall not be employed.

(3) The executive director shall be responsible to the governing body in accordance with the bylaws or rules and regulations for the following:

(a) Overseeing the overall operation of the facility, including the control, utilization, and conservation of its physical and financial assets and the recruitment and direction of staff.

(b) Hiring and direction of personnel.

(c) Assuring that sufficient staff meeting minimum standards under appropriate supervision are on duty to meet the needs of the residents at all times.

(d) Approving purchases and payroll.

(e) Assuring that treatment planning, medical supervision, and quality assurance occur as specified in this regulation.

(f) Advising the governing body of all significant matters bearing on the facility's

licensure and operations.

(g) Preparation of reports or items necessary to assist the governing body in formulating policies and procedures to assure that the facility is capable of providing appropriate and adequate services to residents.

(h) Preparation of a written manual that defines policies and procedures which is regularly revised and updated.

(4) The executive director shall attend and maintain documentation of attendance and participation of staff in continuing education programs.

Section 6. Administration and Operation. (1) Written plan.

(a) The governing body will formulate and specify the facility's goals and objectives and describe its programs in a written plan so that the facility's performance can be measured.

(b) A copy of the written plan shall be given to all professional staff and to the executive director.

(c) The written plan shall be reviewed at least annually and revised as necessary, in accordance with the changing needs of the residents and the community and with the overall objectives and goals of the facility when reviewed or revised. Revisions in the plan shall incorporate, as appropriate, relevant findings from the facility's quality assurance and utilization review programs.

(d) The written plan shall include the following:

1. An organizational chart that includes position titles and the name of the person occupying the position, and that shows the chain of command;

2. A service philosophy with clearly defined assumptions and values;

3. Estimates of the clinical needs of the children and adolescents in the area served by the facility;

4. The services provided by the facility in response to needs;

5. The population served, including age groups and other relevant characteristics of the resident population;

6. The intake or admission process, including how the initial contact is made with resident and the family or significant others;

7. The assessment and evaluation procedures provided by the facility;

8. The methods used to deliver services to meet the identified clinical needs of the residents served;

9. The methods used to deliver services to meet the basic needs of residents in a manner as consistent with normal daily living as possible;

10. The methods used to create a home-like environment for all residents;

11. The methods, means and linkages by which the facility will involve all residents in community activities, organization, and events;

12. The treatment planning process and the periodic review of therapy;

13. The discharge and aftercare planning processes;

14. The organizational relationships of each of the facility's therapeutic programs, including channels of staff communication, responsibility, and authority, as well as supervisory relationships;

15. How all professional services will be supervised by qualified, experienced personnel;

16. How all members of the professional and direct-care staff who have been assigned specific treatment responsibilities are qualified by training or experience and demonstrated competence and have appropriate clinical privileges; or are supervised by professional staff members who are qualified by experience to supervise such treatment and;

17. How the facility will be linked to regional interagency councils, psychiatric hospitals, community mental health centers, Department for Social Services offices and facilities, and school systems in the facility's service area; and

18. The means by which the facility provides, or makes arrangements for the provision of:

a. Emergency services and crisis stabilization;

b. Discharge and aftercare planning, that promotes continuity of care; and

c. Education and vocational services, whether provided by the facility or by agreement. Educational services to be provided by local education agency or a private agency, at a minimum, must be arranged for sixty (60) days prior to the need for the service to be provided.

(2) Professional staff.

(a) The facility shall employ sufficient appropriately qualified professional staff to meet the treatment needs of residents and the goals and objectives of the facility.

(b) Professional staff shall meet all requirements in the licensing, registration, or certification laws relating to their respective professions.

(c) Staffing. The facility shall meet the following specific requirements within regard to staffing:

1. A board-eligible or board-certified child psychiatrist or board-certified adult psychiatrist shall be employed to meet the treatment needs of the residents and the functions which must be performed by a psychiatrist specified within this regulation. When a facility has residents ages twelve (12) and under, the psychiatrist shall be board-eligible or board-certified in child psychiatry.

2. A recreational therapist with a master's degree, or bachelor's degree and two (2) years' experience in a residential setting for children and adolescents shall be employed to meet the treatment needs of the residents and the functions which must be performed by a recreational therapist specified within this regulation.

3. A total of at least two (2) full-time staff shall be employed from two (2) of the following professions (i.e., these staff cannot be from the same profession):

a. Psychologist with Ph.D. or master's degree and autonomous functioning;

b. Social worker with master's degree with three (3) years of inpatient or outpatient clinical experience in psychiatric social work; or

c. Nurse with bachelor's degree and three (3) years' supervised experience in a mental health setting.

4. Staff for the profession listed in subsection (3) of this section who is not employed on a full-time basis, shall be employed at least ten (10) percent of full-time equivalency for eight (8) or fewer residents, fifteen (15) percent of the time for between nine (9) to twelve (12), and twenty (20) percent

for thirteen (13) to sixteen (16) residents.

5. There shall be a ratio of full-time equivalent professional staff to residents of 1:6.

6. A member of the professional staff shall be on the unit or otherwise interacting with residents, in addition to planned verbal therapies, setting the tone of the therapeutic milieu at least two (2) hours each weekday and four (4) hours one (1) day each weekend during a nonschool waking-hour shift.

7. Appropriate professional staff shall be available to assist on-site in emergencies on at least an on-call basis at all times.

8. A physician shall be available on at least an on-call basis at all times.

(d) Clinical director. The governing body shall designate one (1) member of the full-time professional staff as clinical director.

1. In addition to the requirements related to his profession, the clinical director shall have at least a master's degree in a field related to the treatment of mental illness and two (2) years' supervisory experience in a program for children or adolescents with emotional problems.

2. The governing body shall define the authority and duties of the clinical director in its bylaws.

3. The clinical director may be the executive director if the qualifications of both positions are met.

4. The clinical director shall supervise professional staff and be responsible for the maintenance of the facility's therapeutic milieu.

(e) The clinical director, in consultation with professional staff, shall develop written policies and procedures approved by the governing body that specify the following:

1. The clinical privileges of professional staff;

2. The responsibility of professional staff for supervising and directing individuals who require supervision or direction in the provision of resident care services;

3. The responsibilities of physicians in relation to nonphysician members of the professional staff; and

4. The responsibility of professional staff for accounting to the governing body for the quality of clinical care provided to the residents, and for its ethical conduct and professional practice.

(3) Direct-care staff.

(a) The facility shall employ adequate direct-care staff to ensure the continuous provision of sufficient regular and emergency supervision of all residents twenty-four (24) hours a day.

(b) Direct-care staff shall be a mental health associate or hold a high school diploma or equivalency and have two (2) years' experience in a program in the mental health field serving children or adolescents. Completion of a twenty-hour (24) hour training curriculum meeting the requirements of subsection (8)(f) within one (1) month of employment may be substituted for experience, except that no direct-care staff so qualified shall be given clinical privileges in his first year of employment.

(c) In order to assure that the residents are adequately supervised and are cared for in a safe and therapeutic manner, the direct-care staffing plan shall meet each of the following requirements:

1. At least one (1) direct-care staff member who is a mental health associate shall be assigned direct-care responsibilities for residents of each living unit at all times when residents are not in school.

2. At least three (3) direct-care staff members shall be assigned to direct-care responsibilities for each living unit during normal waking hours when the residents are on the unit; however, if the number of residents present on the unit is six (6) or fewer, the number of direct-care staff members may be reduced to two (2).

3. At least one (1) direct-care staff member shall be assigned to direct-care responsibilities for each three (3) residents who are twelve (12) and under and one (1) for each four (4) adolescents who are over twelve (12) during all hours the residents are awake, not on the living unit, and not in school.

4. At least one (1) direct-care staff member shall be assigned direct-care responsibilities, be awake, and be continuously available on each living unit during all hours the residents are asleep. A minimum of one (1) additional direct-care staff member for each living unit shall be immediately available on-site to assist with emergencies or problems which might arise.

5. When a member of the professional staff is directly involved in an activity with a group of residents, he may meet the requirement for a direct-care staff member.

6. The direct-care staff member who is supervising residents shall know the whereabouts of each resident at all times.

(d) The clinical director, in consultation with professional staff, shall develop written policies and procedures approved by the governing body that:

1. Specify the clinical privileges, if any, of each member of the direct-care staff;

2. Provide for the supervision of the direct-care staff; and

3. Describe the responsibilities of direct-care staff in relation to professional staff.

(4) Support staff.

(a) Environmental services. There shall be an adequate number of domestic and maintenance staff to maintain the facility's buildings and grounds in a healthful, comfortable condition and in good repair. Such services may be provided by contractual agreement.

(b) Clerical staff. The facility shall employ a sufficient number of clerical staff qualified by high school diploma or equivalency to maintain correspondence, records, reports and files.

(5) Student field placements/internships. The facility shall ensure that student interns are supervised directly by an appropriate paid staff member who will act as a liaison between the facility and the school making placements.

(6) Volunteers.

(a) The facility may use volunteers to help meet residents' basic needs for social interaction, self-esteem, and self-fulfillment.

(b) The governing body shall adopt written policies and procedures which address screening, selection and supervision of all volunteers.

(c) Volunteers used within the program must meet the qualifications for the positions for which they volunteer.

(d) Volunteers cannot be used in place of required staff.

(e) Volunteers shall be oriented to the facility's goals and services and given appropriate clinical background regarding the facility's residents.

(7) Part-time employees. Part-time employees shall meet minimum qualifications of full-time staff and shall not be utilized to the extent that continuity in resident care is disrupted by frequent shift changes or changes in personnel from day-to-day.

(8) Staff development.

(a) Appropriate staff development programs shall be provided for administrative, professional, direct-care, and support staff under the supervision and direction of the executive director or designee(s). Responsibility for any part of the staff development program may be delegated to appropriately qualified individuals.

(b) The participation of the executive director and professional, direct-care, and support staff in staff development programs shall be documented.

(c) Professional and direct-care staff shall meet the continuing education requirements of their profession or be provided with twenty (20) hours per year of in-service training by the facility.

(d) Library services shall be made available to meet the professional and technical needs of the facility staff. A facility which does not maintain a professional library shall have arrangements with a library or institution for use of its professional library.

(e) The facility shall communicate and collaborate, as appropriate, with national, state, and local mental health professional organizations in planning and providing ongoing training.

(f) The executive director shall require that each staff member working directly with residents demonstrate basic knowledge in the following areas:

1. Child and adolescent growth and development;
2. Therapeutic principles and modalities used in the facility;
3. Building and maintaining a positive therapeutic milieu on the living unit;
4. Techniques of group and child management; and
5. Detection and reporting of child abuse and neglect.

(9) Employment practices.

(a) The facility shall have employment and personnel policies and procedures designed, established, and maintained to promote the objectives of the facility, to ensure that an adequate number of qualified personnel under appropriate supervision is provided during all hours of operation, and to support quality of care and functions of the facility.

(b) The policies and procedures shall be written, systematically reviewed and approved on an annual basis by the governing body, and dated to indicate the time of last review.

(c) The policies and procedures shall provide for the recruitment, selection, promotion and termination of staff.

(d) The facility shall maintain job descriptions approved by the governing body for all positions specifying the qualifications, duties and supervisory relationship of the position. Job descriptions shall accurately reflect the actual job situation and shall be revised whenever a change is made in the required qualifications, duties, supervision, or any other major job-related factor. In addition, salary range for each position shall be provided.

(e) The personnel policies and procedures shall be available and apply to all employees and shall be discussed with all new employees. The governing body shall establish a mechanism for notifying employees of changes in the policies and procedures.

(f) Information on the following shall be included in the policies and procedures:

1. Employee benefits;
2. Recruitment;
3. Promotion;
4. Training and staff development;
5. Employee grievances;
6. Safety and employee injuries;
7. Relationships with employee organizations;
8. Disciplinary systems;
9. Suspension and termination mechanisms;
10. Rules of conduct;
11. Lines of authority;
12. Performance appraisals;
13. Wages, hours and salary administration; and
14. Equal employment opportunity and, when required, affirmative action policies.

(g) The personnel policies and procedures shall describe methods and procedures for supervising all personnel, including volunteers.

(h) The policies and procedures shall require appropriate criminal history and police record checks for all staff and volunteers to assure that only persons whose presence does not jeopardize the health, safety, and welfare of residents are employed and used.

(i) The policies and procedures shall provide for reporting and cooperating in the investigation of suspected cases of child abuse and neglect by facility personnel.

(j) A personnel record shall be kept on each staff member and shall contain the following items:

1. Application for employment;
2. Written references and a record of verbal references;
3. Verification of all training and experience and of licensure, certification, registration, or renewals;
4. Wage and salary information, including all adjustments;
5. Performance appraisals;
6. Counseling actions;
7. Disciplinary actions;
8. Commendations;
9. Employee incident reports; and
10. Initial and subsequent health clearances.

(k) The policies and procedures shall assure the confidentiality of personnel records and specify who has access to various types of personnel information.

(l) Performance appraisals shall relate job description and job performance and shall be written. The criteria used to evaluate job performance shall be objective.

Section 7. Resident Rights. (1) The facility shall support and protect the basic human, civil, and constitutional rights of the individual resident.

(2) Written policy and procedure approved by the governing body shall provide a description of the resident's rights and the means by which these rights are protected and exercised.

(3) At the point of admission, the facility shall provide the resident and parent, guardian

or custodian with a clearly written and readable statement of rights and responsibilities. The statement shall be read to the resident or parent, guardian, or custodian if either cannot read and shall cover, at a minimum:

(a) Each resident's access to treatment, regardless of race, religion, or ethnicity;

(b) Each resident's right to recognition and respect of his personal dignity in the provision of all treatment and care;

(c) Each resident's right to be provided treatment and care in the least restrictive environment possible;

(d) Each resident's right to an individualized treatment plan;

(e) Each resident's and family's participation in planning for treatment;

(f) The nature of care, procedures, and treatment that he will receive;

(g) The risks, side effects, and benefits of all medications and treatment procedures used; and

(h) The right, to the extent permitted by law, to refuse the specific medications or treatment procedures and the responsibility of the facility when the resident refuses treatment, to seek appropriate legal alternatives or orders of involuntary treatment, or, in accordance with professional standards, to terminate the relationship with the resident upon reasonable notice.

(4) The rights of residents shall be written in language which is understandable to the resident, his parents, custodians or guardians and shall be posted in appropriate areas of the facility.

(5) The policy and procedure concerning resident rights shall assure and protect the resident's personal privacy within the constraints of his treatment plan. These rights to privacy shall at least include:

(a) Visitation by the resident's family or significant others in a suitable private area of the facility;

(b) Sending and receiving mail without hindrance or censorship; and

(c) Telephone communications with the resident's family or significant others at a reasonable frequency.

(6) If any rights to privacy must be limited, the resident and his parent, guardian or custodian shall receive a full explanation. Limitations shall be documented in the resident's record and their therapeutic effectiveness shall be evaluated and documented by professional staff every seven (7) days.

(7) The right to initiate a complaint or grievance procedure and the means for requesting a hearing or review of a complaint shall be specified in a written policy approved by the governing body and made available to residents, parents, guardians, and custodians responsible for the resident. The procedure shall indicate:

(a) To whom the grievance is to be addressed and

(b) Steps to be followed for filing a complaint, grievance, or appeal.

(8) The resident and his parent, guardian or custodian shall be informed of the current and future use and disposition of products of special observation and audio-visual techniques such as one (1) way vision mirrors, tape recorders, television, movies, or photographs.

(9) The policy and procedure regarding resident's rights shall ensure the resident's right to confidentiality of all information recorded in his record maintained by the facility. The facility shall ensure the initial and continuing training of all staff in the principles of confidentiality and privacy.

(10) The resident shall be allowed to work for the facility only under the following conditions:

(a) The work is part of the individual treatment plan;

(b) The work is performed voluntarily;

(c) The patient receives wages commensurate with the economic value of the work;

(d) The work project complies with applicable law and regulation; and

(e) The performance of tasks related to the responsibilities of family-like living, such as laundry and housekeeping, shall not be considered work for the facility and need not be compensated or voluntary.

(11) Written policy and procedure developed in consultation with professional and direct care staff and approved by the governing body shall provide for the measures utilized by the facility to discipline residents. These measures shall be fully explained to each resident and the resident's parent, guardian or custodian.

(12) The facility shall prohibit all cruel and unusual disciplinary measures including but not limited to the following:

(a) Corporal punishment;

(b) Forced physical exercise;

(c) Forced fixed body positions;

(d) Group punishment for individual actions;

(e) Verbal abuse, ridicule, or humiliation;

(f) Denial of three (3) balanced nutritional meals per day;

(g) Denial of clothing, shelter, bedding or personal hygiene needs;

(h) Denial of access to educational services;

(i) Denial of visitation, mail, or phone privileges for punishment;

(j) Exclusion of the resident from entry to his assigned living unit; and

(k) Restraint or seclusion as a punishment or employed for the convenience of staff.

(13) Written policy shall prohibit residents from administering disciplinary measures upon one another and shall prohibit persons other than professional or direct-care staff from administering disciplinary measures to residents.

(14) Written rules of resident conduct shall be developed in consultation with the professional and direct-care staff and be approved by the governing body. Residents shall participate in the development of the rules to a reasonable and appropriate extent. These rules shall be based on generally acceptable normal and natural behavior for the resident population served.

(15) The application of disciplinary measures should relate to the violation of established rules.

Section 8. Resident Records. (1) The facility shall have written policies or procedures concerning resident records developed in consultation with professional staff and a registered records administrator and approved by the governing body.

(2) The facility shall maintain a written resident record on each resident, to be directly accessible to staff members caring for the resident.

(3) The resident record shall contain at a minimum:

(a) Basic identifying information;
(b) Appropriate court orders or consent of appropriate family members or guardians for admission, evaluation, and treatment;
(c) A provisional or admitting diagnosis which includes a physical diagnosis, if applicable, as well as a psychiatric diagnosis;
(d) The report by the parent, guardian or custodian of the patient's immunization status;
(e) A psychosocial assessment of the resident and his family, including:
1. An evaluation of the effect of the family on the resident's condition and the effect of the resident's condition on the family; and
2. A summary of the resident's psychosocial needs.
(f) An evaluation of the resident's growth and development, including physical, emotional, cognitive, educational, and social development; and needs for play and daily activities;
(g) The resident's legal custody status, when applicable;
(h) The family's, guardian's, or custodian's expectations for, and involvement in, the assessment, treatment, and continuing care of the resident;
(i) Physical health assessment, including but not limited to evaluations of the following:
1. Motor development and functioning;
2. Sensorimotor functioning;
3. Speech, hearing, and language functioning;
4. Visual functioning; and
5. Immunization status.
(4) The resident record shall also include:
(a) Physician's notes which shall include an entry made at least weekly by the staff psychiatrist regarding the condition of the resident.
(b) Professional progress notes which shall be completed following each professional service except when the service is provided daily to groups of residents, when weekly summaries may be used. Professional progress notes shall be signed and dated by the professional who provided the service.
(c) Direct-care progress notes which shall record implementation of all treatment and any unusual or significant events which occur for the residents. Direct-care progress notes shall be completed at least by the end of each direct-care shift and summarized weekly. Direct-care notes shall be signed and dated by the direct-care staff making the entry.
(d) Special clinical justifications for the use of special and unusual treatment procedures and reports.
(e) Discharge summary.
(f) If a patient dies, the resident record shall include a summation statement in the form of a discharge summary, including events leading to the death, signed by the attending physician.
(5) The facility shall maintain confidentiality of resident records. Resident information shall be released only on written consent of the resident or his parent, guardian or custodian or as otherwise authorized by law. The written consent shall contain the following information:
(a) The name of the person, agency or organization to which the information is to be disclosed;
(b) The specific information to be disclosed;
(c) The purpose of disclosure; and
(d) The date the consent was signed and the signature of the individual witnessing the consent.

Section 9. Quality Assurance. (1) The facility shall have an organized quality assurance program designed to enhance resident treatment and care through the ongoing objective assessment of important aspects of resident care and the correction of identified problems.
(2) The facility shall prepare a written quality assurance plan designed to ensure that there is an ongoing quality assurance program that includes effective mechanisms for reviewing and evaluating resident care, and that provides for appropriate response to findings. The written quality assurance plan shall be approved by the governing body and shall:
(a) Assign responsibility for the monitoring and evaluation activities;
(b) Delineate scope of care provided by the facility;
(c) Identify the aspects of care that the facility provides;
(d) Identify indicators (and appropriate clinical criteria) that can be used to monitor these aspects of care;
(e) Establish thresholds for the indicators at which further evaluation of the care is triggered;
(f) Collect and organize the data for each indicator;
(g) Evaluate the care when the thresholds are reached in order to identify problems or opportunities to improve care;
(h) Take actions to correct identified problems or to improve care;
(i) Assess the effectiveness of the actions and document the improvement in care; and
(j) Communicate relevant information to other individuals, departments, or services and to the facility-wide quality assurance program.
(3) The facility shall record all incidents or accidents that present a direct or immediate threat to the health, safety or security of any resident or staff member. Examples of incidents to be recorded include the following: physical violence, fighting, absence without leave, use or possession of drugs or alcohol, or inappropriate sexual behavior. The record should be kept on file and retained at the facility and shall be made available for inspection by the licensure agency.

Section 10. Admission Criteria. (1) The facility shall have written admission criteria approved by the governing body and which are consistent with the facility's goals and objectives.
(2) Admission criteria shall be made available to referral sources and to parents, guardians, or custodians and shall include:
(a) Types of admission (crisis stabilization, long-term treatment);
(b) Age and sex of accepted;
(c) Criteria that preclude admission;
(d) Clinical needs and problems typically addressed by the facility's programs and services;
(e) Criteria for discharge; and
(f) Any preplacement requirements of the resident, his parents, guardians, custodians, or the placing agency.
(3) A facility may only admit children and adolescents who meet its written admission criteria and for whom the facility finds:

(a) Less-restrictive treatment resources accessible and available in the resident's community will not meet his treatment needs;
(b) Proper treatment of the resident's psychiatric condition requires care and treatment under the direction of a psychiatrist within a residential treatment facility;
(c) Proper treatment of the resident's psychiatric condition requires twenty-four (24) hour care in a facility which provides comprehensive and structured therapeutic mental health treatment in a less structured environment than an inpatient hospital; and
(d) Care and treatment in a residential treatment facility can reasonably be expected to improve the resident's condition or prevent further regression so that residential treatment facility services will no longer be needed, provided that a poor prognosis shall not in itself constitute grounds for a denial of admission if treatment can be expected to effect a positive change in prognosis.
(4) Residents admitted to the facility shall have obtained age six (6), but not attained age eighteen (18). Residents may remain in care until age twenty-one (21) if admitted by their 18th birthday. Admission criteria related to age at admission shall be determined by the age grouping of children currently in residence and shall reflect a range no greater than five (5) years in a living unit.
(5) Children and adolescents who are a danger to self or others for whom the facility is unable to develop a risk-management plan may not be admitted.

Section 11. Resident Management. (1) Intake.
(a) The facility shall have written policies and procedures approved by the governing body for the intake process which addresses at a minimum the following:
1. Referral, records, and statistical data to be kept regarding applicants for residence;
2. Criteria for determining the eligibility of individuals for admission; and
3. Methods used in the intake process which must be based on the services provided by the facility and the needs of residents.
(b) The intake process shall include an initial assessment of the resident done by the professional staff, the results of which are explained to the parent, guardian or custodian if appropriate and to the resident and which result in a conclusion that:
1. The treatment required by the resident is appropriate to the intensity and restrictions of care provided by the facility; and
2. Alternatives for less intensive and restrictive treatment are not available or accessible to the resident.
(c) The intake process shall be designed to provide at least the following information:
1. Identification of agencies who have been involved in the treatment of the resident in the community and the anticipated extent of involvement of those agencies during and after the resident's stay in the facility;
2. Temporary treatment plan including the proposed initial level of intervention with the resident, the health and safety needs, the education and activity plan, and legal, custody and visitation orders; and
3. Proposed discharge plan and anticipated length of stay.
(d) The intake process shall include an orientation for the parent, guardian, or custodian as appropriate and the resident which includes the following:
1. The rights and responsibilities of residents, including the rules governing resident conduct and the types of infractions that can result in disciplinary action or discharge from the facility;
2. Rights, responsibilities, and expectations of the parent, guardian, or custodian; and
3. Preparation of the staff and residents of the facility for the new resident.
(e) Upon admission each resident of school age shall have been certified or be referred for assessment as handicapped pursuant to PL 94-142.
(f) The temporary treatment plan shall be reviewed by all staff involved in the resident's treatment, approved by the clinical director and psychiatrist, and implemented upon admission.
(2) Assessment.
(a) A complete evaluation and assessment shall be performed for each resident which includes, but is not necessarily limited to, physical, emotional, behavioral, social, recreational, educational, legal, vocational and nutritional needs.
(b) The physical examination of each resident shall be initiated within twenty-four (24) hours after admission and shall include, but not be limited to, evaluations of the following:
1. Motor development and functioning;
2. Sensorimotor functioning;
3. Speech, hearing, and language functioning;
4. Visual functioning; and
5. Immunization status. If a resident's immunization is not complete as defined in the report of the Committee on Infectious Diseases of the American Academy of Pediatrics, the facility shall be responsible for its completion and shall begin to complete any immunizations which are outside of the set periodicity schedule within thirty (30) days of admission or the physical examination whichever is later.
(c) If the resident has had a complete physical examination by a qualified physician within the previous three (3) months which includes the requirements of subsection (b) of this section and if the facility obtains complete copies of the record, that examination may be used to meet the requirement for a physical examination in subsection (b) of this section.
(d) A physician shall be responsible for assessing each resident's physical health, his need for a current examination in spite of one done in the prior three (3) months, and his need for special clinical examinations and tests within twenty-four (24) hours of admission.
(e) Facilities shall have all the necessary diagnostic tools and personnel available or have written agreements with another organization to provide physical health assessments, including electroencephalographic equipment, a qualified technician trained in dealing with children and adolescents, and a properly qualified physician to interpret electroencephalographic tracing of children and adolescents.
(f) An emotional and behavioral assessment of each resident that includes an examination by a psychiatrist shall be completed and entered in the resident's record. The emotional and behavioral assessment shall include the following:
1. A history of previous emotional, behavioral, and substance abuse problems and

treatment;
2. The resident's current emotional and behavioral functioning;
3. A direct psychiatric evaluation;
4. When indicated, psychological assessments, including intellectual, projective, and personality testing;
5. When indicated, other functional evaluations of language, self-care, and social-affective and visual-motor functioning; and
6. An evaluation of the developmental age factors of the resident.
(g) The facility shall have an assessment procedure for the early detection of mental health problems that are life threatening, are indicative of severe personality disorganization or deterioration, or may seriously affect the treatment or rehabilitation process.
(h) A social assessment of each resident shall be undertaken and include:
1. Environment and home;
2. Religion;
3. Childhood history;
4. Financial status;
5. The social, peer-group, and environmental setting from which the resident comes; and
6. The resident's family circumstances, including the constellation of the family group; the current living situation; and social, ethnic, cultural, emotional, and health factors, including drug and alcohol use.
(i) The social assessment shall include a determination of the need for participation of family members or significant others in the resident's treatment.
(j) An activities assessment of each resident shall include information relating to the individual's current skills, talents, aptitudes, and interest.
(k) An assessment shall be performed to evaluate the resident's potential for involvement in community activity, organizations, and events.
(l) For adolescents age sixteen (16) and older, a vocational assessment of the resident shall be done which includes, but is not necessarily limited to the following:
1. Vocational history;
2. Education history, including academic and vocational training; and
3. A preliminary discussion, between the resident and the staff member doing the assessment, concerning the resident's past experiences with and attitude toward work, present motivations or areas of interest, and possibilities for future education, training, and employment.
(m) When appropriate, a legal assessment of the resident shall be undertaken and shall include, but not necessarily be limited to, the following:
1. A legal history; and
2. A preliminary discussion to determine the extent to which the legal situation will influence his progress in treatment and the urgency of the legal situation.
(3) Treatment plans.
(a) Within seventy-two (72) hours following admission, the clinical director or a member of the professional staff designated by him shall develop an initial treatment plan that is based at least on an assessment of the resident's presenting problems, physical health, and emotional and behavioral status. Appropriate therapeutic efforts shall begin before a master treatment plan is finalized.
(b) A master treatment plan shall be developed by a multidisciplinary team conference within ten (10) days of admission for any resident remaining in treatment. It shall be based on the comprehensive assessment of the resident's needs completed pursuant to subsection (2) of this section, include a substantiated diagnosis and the short-term and long-range treatment needs, and address the specific treatment modalities required to meet the resident's needs.
1. The treatment plan shall contain specific and measurable goals for the resident to achieve.
2. The treatment plan shall describe the services, activities, and programs to be provided to the resident, and shall specify staff members assigned to work with the resident and the time or frequency for each treatment procedure.
3. The treatment plan shall specify criteria to be met for termination of treatment.
4. The treatment plan shall include any referrals necessary for services not provided directly by the facility.
5. The resident shall participate to the maximum extent feasible in the development of his treatment plan, and such participation shall be documented in the resident's record.
6. The treatment plan shall specify the ways in which the resident will participate in community activities, organizations, and events.
7. The treatment plan shall address ways in which the environment for the resident is normalized.
8. A specific plan for involving the resident's family or significant others shall be included in the treatment plan. The parent, guardian, or custodian shall be given a copy of the resident's master treatment plan. The master treatment plan shall identify the professional staff member who is responsible for coordinating and facilitating the family's involvement throughout treatment.
9. The treatment plan shall be reviewed and updated through multidisciplinary team conferences as clinically indicated, but in no case shall this review and update be completed later than thirty (30) days following the first ten (10) days of treatment and every sixty (60) days thereafter for the first year of treatment.
10. Following one (1) year of continuous treatment, the review and update may be conducted at three (3) month intervals.
(c) The master treatment plan and each review and update shall be signed by the participants in the multidisciplinary team conference that developed it, and approved by the clinical director.
(4) Progress notes.
(a) Progress notes shall be entered in the resident's records, be used as a basis for reviewing the treatment plan, signed and dated by the individual making the entry and shall include, but not be limited to the following:
1. Documentation of implementation of the treatment plan;
2. Chronological documentation of all treatment provided to the resident and documentation of the resident's clinical course; and
3. Descriptions of each change in each of the resident's conditions.
(b) All entries involving subjective interpretation of the resident's progress must

be supplemented with a description of the actual behavior observed.

(c) Efforts shall be made to secure written progress reports for residents receiving services from outside sources and, when available, to include them in the resident record.

(d) The resident's progress and current status in meeting the goals and objectives of his treatment plan shall be regularly recorded in the resident record.

(5) Discharge planning. The facility shall have written policies and procedures for discharge of residents.

(a) Discharge planning must begin at admission and be documented in the resident's record. At least ninety (90) days prior to the planned discharge of a resident from the facility, or within ten (10) days after admission if the anticipated length of stay is under ninety (90) days, the multidisciplinary team shall formulate a discharge and aftercare plan. This plan shall be maintained in the resident's record and reviewed and updated with the master treatment plan.

(b) All discharge recommendations shall be determined through a conference including the appropriate facility staff, the resident, the resident's parents, guardian, or custodian and if indicated, the representative of the agency to whom the resident may be referred for aftercare service(s). All aftercare plans shall delineate those parties responsible for the provision of aftercare services.

(c) If the aftercare plan involves placement of the resident in another licensed program following discharge, facility staff shall share resident information with representatives of the aftercare program provider if authorized by written consent of the parent, guardian, or custodian.

(d) A facility deciding to release a resident on an unplanned basis shall:

1. Have reached the decision to release at a multidisciplinary team conference chaired by the clinical director that determined, in writing, that services available through the facility cannot meet the needs of the resident;

2. Provide at least ninety-six (96) hours notice to the resident's parent, guardian, or custodian and the agency which will be providing aftercare services. If authorized by written consent of the parent, guardian, or custodian, the facility shall provide to the receiving agency(ies) copies of the resident's records and discharge summary.

3. Consult with the receiving agency in situations involving placement for the purpose of ensuring that such placement reasonably meets the needs of the resident; and

4. Provide a written statement explaining the reasons for discharge to the receiving agency.

(e) Within fourteen (14) days of a resident's discharge from the facility, the facility shall compile and complete a written discharge summary for inclusion in the resident's record. The discharge summary shall include:

1. Name, address, phone number, and relationship of the person to whom the resident was released;

2. Description of circumstances leading to admission of the resident to the facility;

3. Significant problems of the resident;

4. Clinical course of the resident's treatment;

5. Assessment of remaining needs of the resident and alternative services recommended to meet those needs;

6. Special clinical management requirements including psychotropic drugs;

7. Brief descriptive overview of the aftercare plan designed for the resident; and

8. Circumstances leading to the unplanned or emergency discharge of the resident, if applicable.

(6) The facility shall request periodic follow-up reports from each agency providing services to the resident in accordance with the aftercare plan, and shall be responsible for documenting the outcome of the aftercare plan as possible.

Section 12. Services. The facility shall provide the following services in a manner which takes into account and addresses the social life; emotional, cognitive, and physical growth and development; and the educational needs of the resident.

(1) Mental health services.

(a) Mental health assessments and evaluations shall be provided as required in Section 11 of this regulation.

(b) The mental health services available through the residential treatment facility shall include, but are not limited to, the services listed below. These mental health services must be provided directly by the residential treatment facility:

1. Case coordination services to assure the full integration of all services provided to each resident. Case coordination activities include monitoring the resident's daily functioning to assure the continuity of service in accordance with the resident's treatment plan and ensuring that all staff responsible for the care and delivery of services actively participate in the development and implementation of the resident's treatment plan.

2. Planned verbal therapies including formal individual, family, and group therapies. These therapies shall be provided on site. These therapies include psychotherapy and other face-to-face verbal contacts between staff and the resident which are planned to enhance the resident's psychological and social functioning as well as to facilitate the resident's integration into a family unit. Verbal contacts that are incidental to other activities are excluded from this service.

3. Task and skill training to enhance a resident's age appropriate skills necessary to facilitate the resident's ability to care for himself and to function effectively in community settings. Task and skill training activities include homemaking, housekeeping, personal hygiene, budgeting, shopping, and the use of community resources.

(2) Physical health services.

(a) The physical health services available through the residential treatment facility shall include, but are not limited to, the services listed below. Physical health services may be provided directly by the facility or may be provided by written agreement.

1. Assessments and evaluations as required in Section 11 of this regulation;

2. Diagnosis, treatment and consultation for acute or chronic illnesses occurring during the resident's stay at the facility or for problems identified during an evaluation;

3. Preventive health care services to include

periodic assessments in accordance with the periodicity schedule established by the American Academy of Pediatrics;

4. A dental examination within six (6) months of admission, periodic assessments in accordance with the periodicity schedule established by the American Dental Association, and treatment as needed;

5. Health and sex education;

6. An ongoing immunization program; and

7. A physical examination within five (5) days of the client's planned date of discharge from the facility.

(b) When physical health services are provided by written agreement with a provider of services other than the facility, the written agreement shall, at a minimum, address:

1. Referral of residents;

2. Qualifications of staff providing services;

3. Exchange of clinical information; and

4. Financial arrangements.

(3) Dietary services.

(a) The facility shall have written policies and procedures approved by the governing body for the provision of dietetic services for staff and residents which may be provided directly by the facility staff or through written contractual agreement.

(b) Adequate staff, space, equipment, and supplies shall be provided for safe sanitary operation of the dietetic service, the safe and sanitary handling and distribution of food, the care and cleaning of equipment and kitchen area, and the washing of dishes.

(c) The nutritional aspects of resident's care shall be planned, reviewed, and periodically evaluated by a qualified dietician registered by the Commission on Dietetic Registration and employed by the facility as a staff member or consultant.

(d) The food shall be served to residents and staff in a common eating place and:

1. Shall account for the special food needs and tastes of residents;

2. Shall not be withheld as punishment; and

3. Shall provide for special dietary need of residents such as those relating to problems, such as diabetes and allergies.

(e) Residents shall participate in the preparation and serving of food as appropriate.

(f) At least three (3) meals per day shall be served with not more than a fifteen (15) hour span between the substantial evening meal and breakfast. The facility shall arrange for and make provision for between-meal and unscheduled snacks.

(4) Emergency services.

(a) The facility shall provide for the prompt notification of the resident's parents, guardian or custodian in case of serious illness, injury, surgery, or death.

(b) The facility shall provide or arrange for the training of all direct-care and professional staff in first aid and CPR.

(c) All staff shall be knowledgeable of a written plan and procedure for meeting potential disasters and emergencies such as fires or severe weather. The plan shall be posted. Staff shall be trained in properly reporting a fire, extinguishing a small fire, and in evacuation from the building. Fire drills must be practiced in accordance with state fire regulations.

(d) The facility shall have written procedures to be followed by staff in the event of a psychiatric, medical or dental emergency of a resident that specifies:

1. Notification of designated member of the facility's chain of command;

2. Designation of staff person who will decide to refer resident to outside treatment resources;

3. Notification of resident's parent, guardian or custodian;

4. Transportation to be used;

5. Staff member to accompany resident;

6. Necessary consent and referral forms to accompany resident; and

7. Name, location, and telephone of designated treatment resources.

(e) The facility shall have designated treatment resources who shall have agreed to accept a resident for emergency treatment. At a minimum the resources shall include:

1. Licensed physician and an alternate designee;

2. Licensed dentist and an alternate designee;

3. Licensed hospital; and

4. Licensed hospital with an accredited psychiatric unit.

(5) Pharmacy services. The facility shall have written policies and procedures approved by the governing body for proper management of pharmaceuticals that are consistent with the following requirements:

(a) Medications shall be administered by a registered nurse, physician, or dentist, except in the case of a licensed practical nurse or a certified medication aide under the supervision of a registered nurse;

(b) No medication shall be given without a written order signed by a physician, or dentist when applicable. Telephone orders for medications shall be given only to registered nurses or a pharmacist and signed by the physician or dentist within twenty-four (24) hours from the time the order is given;

(c) Psychotropic medications shall be prescribed only when clinically indicated as one (1) facet of a program of therapy. The facility shall ensure that no stimulant or psychotropic medication is administered solely for the purpose of program management or control, and that no medication is prescribed for the purposes of experimentation and/or research;

(d) All medications shall require "stop orders";

(e) All prescriptions shall be reevaluated by the prescriber prior to its renewal;

(f) There shall be a systematic method for prescribing, ordering, receipting, storing, dispensing, administering, distributing and accounting for all medications;

(g) The facility shall provide maximum security storage of and accountability for all legend medications, syringes, and needles;

(h) Self-administration of medication shall be permitted only when specifically ordered by the responsible physician and supervised by a member of the professional staff. Drugs to be self-administered shall be stored in a secured area and be made available to the resident at the time of administration;

(i) Residents permitted to self-administer drugs shall be counseled regarding the indications for which the drugs are to be used, the primary side effects, and the physical dosage forms which are to be administered;

(j) Drugs brought into the facility by residents may not be administered unless they have been identified and unless written orders to administer these specific drugs are given by

the responsible physician. Otherwise these drugs are to be packaged, sealed, and stored, and, if approved by the responsible physician, returned to the resident, parent, guardian, or custodian at the time of discharge.

(6) Education/vocational services.

(a) Educational and vocational services available through the facility shall include, but are not limited to, the minimum requirements of Kentucky Revised Statutes and federal laws and regulations regarding regular education, vocational education, and special education as appropriate to meet the needs of the residents. Educational services may be provided directly by the facility, or may be provided by written agreement with the local school district in which the facility is located or with a nonpublic school program which is specially accredited by the Kentucky Department of Education (KDE) and is approved by the KDE to provide special education services to handicapped students. If the educational services are provided by the facility, the school program must be specially accredited by the KDE and be approved by the KDE to provide special education services to handicapped students. In any case, education services approved by the Department of Education must be available either on the same site or in close physical proximity to the residential treatment facility.

(b) When the education services are not provided directly by the facility, there shall be a written agreement between the provider of education services and the facility. The provider shall be a state education department-approved program. The written agreement shall, at a minimum, address:

1. Qualifications of staff providing services;
2. Participation of educational and vocational staff in the treatment planning process;
3. Access by staff of the facility to educational and vocational programs and records; and
4. Financial and service arrangements.

(c) The facility shall ensure that residents have opportunities to be educated in the least restrictive environment consistent with the treatment needs of the resident as determined by the multidisciplinary team and reflected in the resident's master treatment plan.

(d) Upon admission each resident of school age shall have been certified or be referred for assessment as handicapped pursuant to PL 94-142.

(e) The facility shall ensure that education services are developed and implemented in conjunction with the master treatment plan and meet the following requirements:

1. The resident's teacher shall be a member of the multidisciplinary team, when possible.
2. Each resident's master treatment plan shall include formal academic goals for remediation and continuing education.
3. Each resident eligible for special education services to the handicapped shall have an individualized education plan (IEP) which shall include treatment activities as developed by the multidisciplinary team. The multidisciplinary team shall develop treatment activities which extend into the classroom as appropriate. The executive director or designee shall receive notice and an invitation to attend all IEP meetings.
4. To avoid unnecessary duplication and make maximum use of resources, the budgets for the education and treatment components for those children identified as handicapped pursuant to PL 94-142 shall be developed with the opportunity for input from both parties, and copies of the budgets shall be provided to both parties.

(f) The facility shall provide or arrange for vocational services for residents, as is age appropriate and is in accordance with the master treatment plan. The services shall be planned, implemented and supervised by a qualified vocational counselor or appropriate therapist who may be a full- or part-time employee of the facility or a consultant.

(g) Residents may be permitted to accumulate earnings in a bank account established with the resident by the facility.

(7) Activity services.

(a) The recreational therapist shall prepare a daily schedule of planned activities for the approval of the clinical director prior to implementation of the schedule.

1. The schedule shall be in half-hour increments for normal waking hours that residents are not in school.
2. The schedule shall include a full range of activities including, but not limited to physical recreation, team sports, art, and music; attendance at recreational and cultural events in the community; and individualized, directed activities like reading and crafts.
3. Nondirected leisure time shall be limited to two (2) one-half (1/2) hour periods on school days and three (3) one-half (1/2) hour periods on nonschool days.
4. The activity schedule shall identify the professional or direct-care staff who will lead and support each activity.
5. Changes made to the schedule as the schedule is implemented shall be indicated on a copy of each daily schedule maintained as a permanent record by the clinical director.

(b) The recreational therapist shall direct, consult with, and train staff responsible for leading the scheduled activities.

(c) The recreational therapist shall evaluate the effectiveness of the activity services.

(d) Appropriate time, space, and equipment shall be provided by the facility for leisure activity and free play.

(e) The facility shall provide the means of observing holidays and personal milestones in keeping with the cultural and religious background of the residents.

(8) Speech, language, and hearing services. The facility shall provide or arrange for speech, language, and hearing services to meet the identified needs of residents. These services shall be provided by the facility or through written agreement with a qualified speech-language and hearing clinician. The written agreement shall, at a minimum, address:

(a) Referral of residents;
(b) Qualifications of staff providing services;
(c) Exchange of clinical information; and
(d) Financial arrangements.

Section 13. Special Treatment Procedures. (1) Special treatment procedures include procedures such as restraint or seclusion and holding which may have abuse potential or be life threatening. Special treatment shall be used only as a means to prevent a resident from injuring himself or others or to prevent serious disruption of the therapeutic environment.

(2) Special treatment procedures at no time shall be used as punishment or as a convenience of staff.

(3) Special treatment procedures may be used only by trained, clinically-privileged staff.

(4) The facility shall have a written plan approved by the governing body for the use of special treatment procedures which at a minimum meet the following requirements:

(a) Any use of special treatment procedures requires clinical justification.

(b) A rationale and the clinical indications for the use of special treatment procedures must be clearly stated in the resident's record for each occurrence. The rationale shall address the inadequacy of less restrictive intervention techniques.

(c) The plan shall specify the length of time for which a specific approval remains effective.

(d) The plan shall specify the length of time the special treatment procedure may be utilized.

(5) Restraint or seclusion may be ordered or carried out only after the physician who is authorizing the use of the procedure has conducted a clinical assessment or has consulted with a member of the clinical staff who has conducted a clinical assessment of the resident.

(6) Each written order for restraint or seclusion shall be time limited and shall not exceed twenty-four (24) hours. No PRN orders for restraint or seclusion may be written.

(7) Restraint or seclusion may be utilized in an emergency by trained, clinically-privileged staff. The emergency implementation of restraint or seclusion shall not exceed thirty (30) minutes at which time a physician staff member's oral order is required if use of the procedure is to continue. The physician's written order to confirm restraint or seclusion must be entered in the resident's record as soon as possible, but not more than twenty-four (24) hours after the implementation of the procedure.

(8) Use of restraint or seclusion for a period of twenty-four (24) hours shall be approved by a committee made up of the professional staff, the clinical director, and the executive director prior to the expiration of the first twenty-four (24) hour order.

(9) Staff who implement special treatment procedures shall have documented training in the proper use of the procedure used and shall be certified in physical management by a nationally recognized training program in which certification is obtained through skilled-out testing.

(10) A professional or direct-care staff member shall be constantly, physically present with a resident in restraint; and attention shall be given in regard to regular meals, bathing and use of the toilet. This attention shall be documented in the resident's record.

(11) A professional or direct-care staff person shall always be in the seclusion room with a resident twelve (12) years of age or under so long as the staff person is not placed in undue physical danger due to the relative size and strength of the resident who is in seclusion. Attention shall be given in regard to regular meals, bathing and use of the toilet. This attention shall be documented in the resident's record.

(12) Constant visual attention through physical presence, remote video, or window shall be paid to an adolescent who is in seclusion and over twelve (12) years of age or a resident who is under twelve (12) years of age if the staff person would be placed in undue physical danger due to the resident's relative size and strength. Professional or direct-care staff shall check the resident's breathing and talk to the resident every fifteen (15) minutes and shall attend to the resident's regular meals, bathing and use of the toilet. This attention shall be documented in the resident's record.

(13) At no time may a procedure be used in a manner that causes undue physical discomfort, harm or pain to a resident.

(14) All uses of special treatment procedures shall be reviewed on a daily basis by the clinical director and evaluated by him for the possibility of unusual or unwarranted patterns of use.

(15) No facility shall use extraordinary risk procedures including, but not limited to experimental treatment modalities, psychosurgery, aversive conditioning, electroconvulsive therapies, behavior modification procedures that use painful stimuli, unusual medications, and investigational and experimental drugs.

(16) Unusual treatment shall require the informed consent of the resident and parent, guardian, or custodian prior to the provision of unusual treatment as follows:

(a) The proposed unusual treatment shall be reviewed and interpreted by one (1) or more persons legally qualified to prescribe treatment addressing the rationale for use, methods to be used, specified time to be used, who will provide the treatment, and the methods that will be used to evaluate the efficacy of the treatment.

(b) The potential risks, side effects, and benefits of the proposed unusual treatment shall be explained, verbally and in writing, to the resident and the parent, guardian or custodian prior to their granting approval for the unusual treatment. The approval shall be given in writing prior to implementation of the treatment.

Section 14. Housekeeping Services. (1) The facility shall have policies and procedures for and services which maintain a clean, safe, and hygienic environment for residents and facility personnel. Policies and procedures shall include guidelines for at least the following:

(a) The use, cleaning, and care of equipment;

(b) Assessing the proper use of housekeeping and cleaning supplies;

(c) Evaluating the effectiveness of cleaning; and

(d) The role of the facility staff in maintaining a clean environment.

(2) A laundry service shall be provided by the facility or through contractual agreement.

(3) Pest control shall be provided by the facility or through contractual agreement.

Section 15. Infection Control. (1) Because infections acquired in a facility or brought into a facility from the community are potential hazards for all persons having contact with the facility, there shall be an infection control program developed to prevent, identify, and control infections.

(2) Written policies and procedures pertaining to the operation of the infection control program shall be established, reviewed at least annually, and revised as necessary.

(3) A practical system shall be developed for

reporting, evaluating, and maintaining records of infections among residents and personnel.

(4) The system shall include assignment of responsibility for the ongoing collection and analysis of data, as well as for the implementation of required follow-up actions.

(5) Corrective actions shall be taken on the basis of records and reports of infections and infection potentials among residents and personnel and shall be documented.

(6) All new employees shall be instructed in the importance of infection control and personal hygiene and in their responsibility in the infection control program.

(7) The facility shall document that in-service education in infection prevention and control is provided to all services and program components.

CLAY CESSNA, Inspector General
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: November 6, 1990
FILED WITH LRC: November 15, 1990 at 11 a.m.

PUBLIC HEARING: A public hearing on this regulation has been scheduled for December 27, 1990, at 9 a.m. in the Department for 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 December 22, 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: Eric Friedlander

(1) Type and number of entities affected: Since this will be a new program it is difficult to determine, at least one per area development district.

(a) Direct and indirect costs or savings to those affected: As a new program it is difficult to estimate costs. The fact that these regulations require specific licensure fees, staffing levels and physical plant requirements, costs will be associated with providing these services.

1. First year: Unknown.

2. Continuing costs or savings: Unknown.

3. Additional factors increasing or decreasing costs (note any effects upon competition): This is a new level of care provided for in the State Health Plan. The state health plan limits the number of facilities allowed to one per area development district, additional facilities will be allowed in urban areas.

(b) Reporting and paperwork requirements: New requirements will require documentation on the part of facilities to prove compliance with these standards.

(2) Effects on the promulgating administrative body: The promulgating body, the Office of Inspector General will incorporate survey responsibilities within its existing workload.

(a) Direct and indirect costs or savings: The Department for Medicaid Services will fund this program through appropriations set aside for 1991 and 1992 in HB 799 of the 1990 General Assembly.

1. First year: Medicaid has $1,445,900 budgeted for 1991.

2. Continuing costs or savings: Medicaid has $3,219,000 for 1992.

3. Additional factors increasing or decreasing costs: Unknown at this time.

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: Revenues will be increased by the amount of the licensure fee or however many facilities end up being licensed under this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: This is a part of the cabinet's SED plan.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No conflict exists.

(a) Necessity of proposed regulation if in conflict: No conflict exists.

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? Yes. There were some efforts made to allow for some staffing variances for smaller facilities.

CABINET FOR HUMAN RESOURCES
Office of Inspector General

902 KAR 20:330. Psychiatric residential treatment facilities.

RELATES TO: KRS 216B.010 to 216B.130, 216B.990
STATUTORY AUTHORITY: KRS 216B.042, 216B.105
NECESSITY AND FUNCTION: KRS 216B.042 and 216B.105 mandates that the Kentucky Cabinet for Human Resources regulate health facilities and services. This regulation provides for the minimum licensure requirements regarding physical plant requirements for psychiatric residential treatment facilities. This regulation is intended to allow existing facilities, with modifications, to be licensed in this category of health care.

Section 1. Definitions. (1) "Residential treatment facility" means freestanding facility with a maximum of sixteen (16) beds which provides inpatient psychiatric residential treatment to residents age six (6) to twenty-one (21) who are capable of self-preservation during an internal disaster.

(2) "Licensure agency" means the Division for Licensing and Regulation in the Office of the Inspector General, Cabinet for Human Resources.

(3) "Certificate of need" means an authorization by the Commission for Health Economics Control in Kentucky to proceed with any acquisition, initiation, construction or expansion pursuant to KRS Chapter 216B.

(4) "License" means an authorization issued by the commission for the operation of a residential treatment facility.

(5) "Living unit" means the area that is supplied by the facility for daily living and therapeutic interaction of the residents. There shall be a maximum of ten (10) residents per living unit.

(6) "Freestanding" means a completely detached and separate building, street access, telephone service, dining and street address.

Section 2. Preparation and Approval of Plans and Specifications. After receiving certificate of need from the Commission for Health Economics Control in Kentucky, if necessary, the following procedures shall be followed:

(1) Before construction is begun for the erection of new buildings or alterations to existing buildings or any changes in facilities, the licensee or applicant shall submit plans in the detail specified in Section 3 of this regulation to the licensure agency for approval.

(2) All architectural, mechanical and electrical drawings shall bear either the seal of a professional engineer registered in the Commonwealth of Kentucky, or an architect registered in the Commonwealth of Kentucky.

(3) Drawings shall not exceed thirty-six (36) inches by forty-six (46) inches when trimmed.

(4) All such plans and specifications must be approved by the licensure agency prior to commencement of construction of new buildings or alterations of existing buildings.

(5) Plans and specifications in specific detail as required by the Kentucky Building Code shall be submitted together with architectural and/or engineering stamps as required by KRS Chapters 322 and 323, to the Department of Housing Buildings and Construction for determining compliance with the Kentucky Building Code. All such plans and specifications must be approved by the Department of Housing, Buildings and Construction and appropriate local building permits shall be obtained prior to commencement of construction.

(6) Access to the work. Representatives of the appropriate state agencies will have access at all reasonable times to the work wherever it is in preparation or progress, and the contractor shall provide proper facilities for such access and inspection.

Section 3. Compliance with Building Codes, Ordinances and Regulations. (1) This section may be administered independently from other sections of this regulation.

(2) General. Nothing stated herein shall relieve the sponsor from compliance with building codes, ordinances, and regulations which are enforced by city, county, or state jurisdictions.

(3) The following requirements shall apply where applicable and as adopted by the respective agency authority:

(a) Requirements for fire safety pursuant to 815 KAR 10:020.

(b) Requirements for plumbing pursuant to 815 KAR 20:010 through 20:191.

(c) Requirements for elevators pursuant to 815 KAR 4:010 through 4:025.

(d) Requirements for making buildings and facilities accessible to and usable by the physically handicapped, pursuant to KRS 198B.260 and regulations promulgated thereunder.

(4) Prior to occupancy, the facility shall have final approval from appropriate agencies.

(5) All facilities shall be currently approved by the Department of Housing, Buildings and Construction before licensure and relicensure is granted by the licensure agency.

Section 4. Facility Requirements and Special Conditions. (1) Facilities shall be available to the public, staff, and residents who may be physically handicapped with special attention given to ramps, drinking fountain height, mirrors, etc.

(2) Access to the facility shall be by means of a paved or gravel roadway which shall be available for use by traffic prior to a license being issued to a facility for occupancy.

(3) A copy of the narrative program for each project shall be provided to the licensure agency by the sponsor which describes the functional space requirements, staffing patterns, departmental relationships, and other basic information relating to the fulfillment of the objectives of the facility.

(4) The extent (number and types of rooms) of the diagnostic, clinical, and administrative facilities to be provided shall be determined by the services to be provided and the estimated patient load as described in the narrative program.

Section 5. Living Unit. The following shall be included:

(1) Bedrooms.

(a) Bedrooms shall not be used to sleep more than two (2) children and shall have clearances of at least three (3) feet between each bed, and four (4) feet from the foot of the beds.

(b) Bedrooms shall be equipped with a bed for each resident. Beds shall be not less than thirty-six (36) inches wide nor less than five (5) feet in length and shall be long and wide enough to accommodate the resident's size. A mattress cover, two (2) sheets and a pillow and such bed covering as is required to keep the resident comfortable, shall be provided for each bed. Rubber or impervious sheets shall be placed over the mattress cover when appropriate. Each bed shall be equipped with a support mechanism and a clean mattress.

(c) Beds occupied by resident shall be placed so that no child may experience discomfort because of proximity to radiators, heat outlets, or exposure to drafts.

(d) There shall be separate sleeping quarters for males and females.

(e) Residents shall not be housed in rooms, detached buildings, or other enclosures which have not been previously inspected and approved for residential use by the licensure agency and the Department of Housing, Buildings and Construction.

(2) Bathrooms.

(a) Each living unit shall have a minimum of one (1) wash basin with hot and cold water, one (1) flush toilet, and one (1) bath or shower with hot and cold water for every four (4) residents, or fraction thereof, residing within the living unit. (Separate toilet and bath/shower facilities shall be provided for each sex.)

(b) Each bathroom shall be supplied with toilet paper, towels, soap, and wastebaskets.

(c) Where more than one (1) toilet is provided in the same room, each toilet shall be partitioned and include a door capable of remaining closed which affords full visual privacy.

(d) Bathtubs and showers shall have enclosures or screens for individual privacy. Shower heads must be of institutional safety type.

(e) At least one (1) bathing facility shall have space for a wheelchair resident with an assisting attendant. It may serve both sexes.

(f) Each bathroom shall contain at least one (1) nondistorting mirror secured to the wall at a convenient height.

(g) The bathrooms shall not be constructed to create a thoroughfare bathroom to bedrooms. The bathroom shall only have one (1) door.

(3) Wardrobe or closet for each resident. Minimum clear dimensions: one (1) foot and ten (10) inches deep by one (1) foot and eight (8) inches wide with full length hanging space; provide clothes rod and shelf. Additional areas shall be provided for storage of resident's winter coats, raincoats and other bulky articles of clothing, etc. Those areas shall be key-locked and under staff control.

(4) Desk and chair for each resident. Minimum clear dimensions: for the desk: one (1) foot and six (6) inches deep by three (3) feet wide by two (2) feet high.

(5) Window. Degree of security required shall be as determined by the program. Where glass fragments may create a hazard, safety glazing and/or other appropriate security features shall be incorporated.

(6) If a staff call system is included, provisions shall be made to permit removal of call buttons and/or use of blank plates as appropriate.

(7) No bedroom shall be located more than (60) feet from the duty station, and the door shall be within visual contact with the duty station.

(8) No room shall be used as a resident bedroom where the access is through another resident's bedroom.

(9) Resident's living, dining, and recreation area:

(a) The total area provided for living and recreation shall be not less than forty (40) square feet per resident;

(b) The total area providing for dining shall not be less than fifteen (15) square feet per resident.

(c) The living area shall provide comfortable seating for at least ten (10) persons.

(d) Indoor recreation equipment in good condition and appropriate for the ages of residents on the living unit shall be provided.

(e) Storage shall be provided for recreational equipment and supplies. (Such as wall cabinets or closets.)

(f) The facility shall provide space for outdoor recreation activities for residents. The outdoor area shall be free from litter, glass and other objects which pose undue safety hazards to residents.

(g) Outdoor recreation equipment in good condition and appropriate for the age of the residents shall be provided.

(10) Service areas for each living unit. The size and location of each area will depend on the number of residents served and shall include:

(a) Duty station. Adequate space for charting and other required administrative functions shall be provided.

(b) Staff lounge area. It shall have personal storage space and a toilet for staff use.

(c) Medicine area. Provision shall be made for twenty-four (24) hours distribution of medicine to residents. This may be from a medicine preparation room or unit, a self-contained medicine dispensing unit, or by another approved system. If a medicine preparation room or unit is used it shall be under the treatment staff's visual control and contain a work counter, refrigerator, sink and locked storage for biologicals and drugs. If a medicine dispensing unit is used it may be located at the duty station, in a clean workroom, or in an alcove under direct control of the treatment or pharmacy staff. The controlled substances must be kept under double lock.

(d) Clean linen storage. It must be in an enclosed room.

(11) Seclusion room. A seclusion room may be provided. The room, if provided, shall be located in a manner affording direct observation of the patient by the nursing staff. This room, if provided, shall be completely padded and be constructed to minimize the resident's hiding, escape, injury or suicide. The seclusion room is intended for short term occupancies by residents who may have become violent or suicidal. Therefore, special fixtures, hardware, etc., shall be used. No electrical switches, receptacles, etc. shall be provided in the rooms. Doors shall swing outward and have provisions for staff observation while maintaining privacy from public and other patients. This room, if provided, shall allow for the constant visual inspection of the entire room.

(12) Each living unit shall be equipped with a working sink, stove and refrigerator, unless a kitchen is directly available within the same building as the living unit.

Section 6. Kitchen Area. If a commercial service is used or meals provided by an adjacent facility, dietary areas and equipment shall be designed to accommodate the requirements for sanitary, efficient and safe storage, processing, and handling, otherwise the following shall be provided:

(1) Food serving facilities to accommodate residents and staff.

(2) Refrigerated storage to accommodate a three (3) day supply minimum.

(3) Dry storage to accommodate a three (3) day supply minimum.

(4) Janitor's closet. Storage for housekeeping supplies and equipment; floor receptor or service sink. A locked area shall be provided for hazardous materials.

Section 7. Administration Area. Sufficient space shall be allotted for administrative operations. The following areas shall be provided:

(1) Medical records area. This area shall include adequate space for record storage, record review and dictating, record sorting and recording.

(2) Visitors toilet room. The staff toilet room may also serve as the visitors toilet room if marked and accessible.

Section 8. Consultation and Visitation Rooms. Professional consultation rooms shall be provided which provide for the privacy and dignity of the patient during interview, examination, treatment, and visitation.

Section 9. Pharmacy or Drug Area. There shall be adequate facilities for the safe storage and handling of pharmaceuticals including double locking of controlled substances and refrigeration for biologicals and drugs which require refrigeration.

Section 10. Storage and Service Areas. The following shall be included:

(1) Sufficient storage space shall be provided.

(2) Engineering service and equipment areas.

The following shall be provided where applicable:
(a) Storage room for housekeeping equipment. (Need not be provided if space is available in janitor's closets or elsewhere);
(b) Refuse area, for holding trash prior to disposal, shall be located convenient to service entrance.

Section 11. Details and Finishes. A high degree of safety for the occupants in minimizing the incidence of accidents shall be provided. Hazards such as sharp corners shall be avoided. All details and finishes shall meet the following requirements:
(1) Details.
(a) All doors opening onto corridors shall be swing-type except elevator doors. Alcoves and similar spaces which generally do not require doors are excluded from this requirement.
(b) All doors to resident room toilet rooms shall swing outward or shall be equipped with hardware which will permit access in any emergency.
(c) Thresholds and expansion joint covers, if used, shall be flush with the floor.
(d) Lavatories intended for use by residents shall be installed to permit wheelchairs to slide under.
(e) Mirrors shall be arranged for convenient use by residents in wheelchairs as well as by residents in standing position.
(f) Towel rack or dispensers shall be provided at all lavatories and sinks used for handwashing.
(g) Ceiling heights.
1. Corridors, storage rooms, resident's toilet room, and other minor rooms. Not less than seven (7) feet and six (6) inches.
2. All other rooms. Not less than eight (8) feet.
(2) Finishes.
(a) Floors generally shall be easily cleanable and shall have the wear resistance appropriate for the location involved. Floors in kitchen and related spaces shall be waterproof and grease-proof. In all areas where floors are subject to wetting, they shall have a nonslip finish.
(b) Adjacent dissimilar floor materials shall be flush with each other to provide an unbroken surface.
(c) Walls generally shall be washable and in the immediate area of plumbing fixtures, the finish shall be moisture-proof. Wall bases in dietary areas shall be free of spaces that can harbor insects.
(d) Ceilings generally shall be washable or easily cleanable. This requirement does not apply to mechanical and building equipment rooms, shops and similar spaces.
(e) Rooms containing heat-producing equipment such as laundries and food preparation areas shall be insulated and ventilated to prevent any floor surface from exceeding a temperature of ten (10) degrees Fahrenheit above the ambient room temperature.

Section 12. Construction. Foundations shall rest on natural solid ground if a satisfactory soil is available at reasonable depths. Proper soil bearing values shall be established in accordance with recognized standards. If solid ground is not encountered at practical depths, the structure shall be supported on driven piles or drilled piers designed to support the intended load without detrimental settlement.

Section 13. Mechanical Requirements. (1) Steam and hot water systems. If boilers are provided in residential treatment facilities the design and installation shall comply with 815 KAR 15:010 through 15:080.
(2) Temperature.
(a) A minimum temperature of sixty-eight (68) degrees Fahrenheit shall be provided for in occupied areas in winter conditions.
(b) A maximum temperature of eighty-five (85) degrees Fahrenheit shall be provided for in occupied areas in summer conditions.
(3) Plumbing and other piping systems. All showers and bathtubs shall be equipped with antiscald thermastatic mixing valves which controls hot water at a maximum temperature of 110 degrees Fahrenheit. Fixtures used in the dietary area, the clean work room and medi/prep area shall be trimmed with valves which can be operated without the use of hands. Where blade handles are used for this purpose, they shall be approximately four (4) inches in length. The fixtures shall be installed to provide adequate side clearances for proper use of the blade handles.
(4) Water supply systems.
(a) System shall be designed to supply water to the fixtures and equipment on the upper floors at a minimum pressure of fifteen (15) pounds per square inch during maximum demand periods.
(b) Each water service main, branch main, riser and branch to a group of fixtures shall be valved. Stop valves shall be provided at each fixture.
(c) Hot, cold and chilled water piping and waste piping on which condensation may occur shall be insulated. Insulation of cold and chilled water lines shall include an exterior barrier.
(d) Backflow preventers (vacuum breakers) shall be installed on hose bibs and on all fixtures to which hoses or tubing can be attached such as janitor's sinks and bedpan flushing attachments.
(e) Hot water distribution systems shall be arranged to provide hot water at each fixture at all times.
(f) Piping over food preparation centers, food serving facilities, food storage areas, and other critical areas shall be kept to a minimum and shall not be exposed. Special precautions shall be taken to protect these areas from possible leakage of, or condensation from necessary overhead piping systems.
(5) Hot water heaters and tanks.
(a) The hot water heating equipment shall have sufficient capacity to supply the water at the temperature and amounts indicated below:

Gal/hr/bed	6 1/2
Temperature (Degrees Fahrenheit)	100-110

(b) Storage tank(s) shall be provided and shall be fabricated of corrosion-resistant metal, or have noncorrosive lining.
(6) Plumbing approval. Prior to licensure and relicensure, all specifications shall be approved by the Kentucky Division of Plumbing, Department of Housing, Buildings and Construction.

Section 14. Electrical Requirements. (1) General. Electrical requirements of the Kentucky Building Code shall apply where applicable.

(2) The wiring in each home shall be inspected by a certified electrical inspector and a certificate of approval shall be issued, to the facility, prior to occupancy; however, the wiring in existing buildings shall be approved by a certified electrical inspector only when the building has not been previously so approved for health care occupancy or where the State Fire Marshal finds that a hazardous condition exists.

(3) Switchboard and power panel. All breakers and switches shall be indexed.

(4) Lighting.

(a) All spaces occupied by people, machinery, and equipment within buildings, and the approaches thereto, and parking lots shall have electric lighting.

(b) Residents' bedrooms shall have general lighting. A reading light shall be provided for each resident when appropriate. Residents' reading lights and other fixed lights not switched at the door shall have switch controls convenient for use at the luminary. Night lights shall be provided in each resident's room.

(5) Receptacles (convenience outlets).

(a) Bedroom. Each resident bedroom shall have duplex receptacles as follows: one (1) each side of the head of each bed (for parallel adjacent beds, only one (1) receptacle is required between beds); receptacles for luminaries, television and motorized beds, if used, and one (1) receptacle on another wall. Receptacles shall be of a safety type or protected with five (5) milliampere ground fault interrupters.

(b) Corridors. Duplex receptacles for general use shall be installed approximately fifty (50) feet apart in all corridors and within twenty-five (25) feet of ends of corridors. Receptacles shall be of a safety type or protected with five (5) milliampere ground fault interrupters.

CLAY CESSNA, Inspector General
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: November 6, 1990
FILED WITH LRC: November 15, 1990 at 11 a.m.

PUBLIC HEARING: A public hearing on this regulation has been scheduled for December 27, 1990, at 9 a.m. in the Department for 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 December 22, 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: Eric Friedlander

(1) Type and number of entities affected: Since this will be a new program it is difficult to determine, at least one per area development district.

(a) Direct and indirect costs or savings to those affected: As a new program it is difficult to estimate costs. The fact that these regulations require specific licensure fees, staffing levels and physical plant requirements, costs will be associated with providing these services.

1. First year: Unknown.
2. Continuing costs or savings: Unknown.
3. Additional factors increasing or decreasing costs (note any effects upon competition): This is a new level of care provided for in the State Health Plan. The state health plan limits the number of facilities allowed to one per area development district, additional facilities will be allowed in urban areas.

(b) Reporting and paperwork requirements: New requirements will require documentation on the part of facilities to prove compliance with these standards.

(2) Effects on the promulgating administrative body: The promulgating body, the Office of Inspector General will incorporate survey responsibilities within its existing workload.

(a) Direct and indirect costs or savings: The Department for Medicaid Services will fund this program through appropriations set aside for 1991 and 1992 in HB 799 of the 1990 General Assembly.

1. First year: Medicaid has $1,445,900 budgeted for 1991.
2. Continuing costs or savings: Medicaid has $3,219,000 for 1992.
3. Additional factors increasing or decreasing costs: Unknown at this time.

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: Revenues will be increased by the amount of the licensure fee or however many facilities end up being licensed under this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: This is a part of the cabinet's SED plan.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No conflict exists.

(a) Necessity of proposed regulation if in conflict: No conflict exists.

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? Yes. There were some efforts made to allow for some staffing variances for smaller facilities.

CABINET FOR HUMAN RESOURCES
Department for Employment Services

903 KAR 6:070. Classifying a person as unemployed; appeals.

RELATES TO: KRS 141.065, Administrative Order HR 86-1

STATUTORY AUTHORITY: KRS 194.050

NECESSITY AND FUNCTION: KRS 141.065 provides a credit to taxpayers for hiring a person classified as unemployed. The Department for Employment Services is required by Administrative Order HR 86-1 to perform all administrative functions pertaining to the unemployment tax credit program. The Secretary of the Cabinet for Human Resources may adopt rules and regulations as are necessary to implement the unemployment tax credit program, and as are necessary to cooperate with the Revenue Cabinet for the proper administration of the program. The function of this regulation is to establish when a person is classified as unemployed for purposes of the unemployment tax

credit program, and to establish the appeals process and general rules for the conduct of hearings regarding the denial of the unemployment tax credit to a taxpayer.

Section 1. Definitions. (1) "Actively seeking work" means a person making such reasonable effort to obtain work at least sixty (60) days prior to hire as might be expected of a prudent person under like circumstances, including but not limited to occupations, salary, number of employing firms in area, and distance involved.

(2) "Full-time employment" means, for labor market attachment purposes, if he or she worked more than twenty-three (23) hours per week or more than 100 hours per month for at least thirty (30) days prior to the sixty (60) day, minimum unemployed period.

(3) Labor market attachment" means had full-time employment before the sixty (60) day minimum unemployed period. Self-employment can be used to meet this requirement.

(4) "Readily available" means a person who at least sixty (60) days prior to hire was willing and able to enter into full-time employment; and possessing the ability to overcome any barriers, including but not limited to arranging child care, part-time work or school schedules, transportation, or other conditions that would prevent an individual from accepting full-time employment.

Section 2. (1) A person shall be considered "classified as unemployed" for purposes of the unemployment tax credit program, if:

(a) Prior to the sixty (60) day minimum unemployment period, the person had prior labor market attachment; and

(b) During the sixty (60) day minimum unemployment period prior to being hired:

1. Was not working; or

2. Was employed not more than twenty-three (23) hours per week; or

3. Was employed not more than 100 hours per month; and

4. Was actively seeking and readily available for full-time employment.

(2) Involvement in a strike or labor dispute during the sixty (60) day minimum unemployment period does not meet the definition of umemployment for purposes of the unemployment tax credit program.

Section 3. Request for Reconsideration. (1) Any party aggrieved as a result of the denial of the unemployment tax credit to a taxpayer shall request a reconsideration of the denial by contacting the state tax credit unit. The request for reconsideration shall be in writing. The request for reconsideration shall be filed within fifteen (15) days of the mailing date of the denial notice.

(2) The aggrieved party shall submit any additional information to be considered during the reconsideration process in writing within ten (10) days of the mailing date of the request for reconsideration.

(3) The state tax credit unit shall issue its decision within forty-five (45) days of receipt of the request for reconsideration. Upon reconsideration, a certificate may be issued or a second denial letter stating appeal rights for a formal hearing may be issued.

Section 4. Appeals to Hearing Officer. (1) Within fifteen (15) days of the mailing date of a second denial notice, an aggrieved party shall file a written request for hearing with the state tax credit unit. Upon receipt of the written request for hearing, the Secretary of the Cabinet for Human Resources shall appoint an impartial hearing officer to hear and decide appealed denials.

(2) A hearing shall be scheduled and commenced within sixty (60) days of receipt of the request for hearing. Notice of the hearing shall be mailed by certified mail, return receipt requested, to the parties.

(3) Prior to the formal hearing, and upon seven (7) days written notice to all parties, the hearing officer may hold a prehearing conference to consider simplification of the issues, admissions of facts and documents which will avoid unnecessary proof, limitations of the numbers of witnesses, and any other matters as will aid in the disposition of the matter. Disposition of the matter may be made at the prehearing conference, by stipulation, agreed settlement, or consent order. Prehearing conferences are to be open to the public. A written prehearing conference report shall be part of the record.

(4) Any party to a hearing and the administering agency may be represented by counsel and may make oral or written argument, offer testimony, cross-examine witnesses, or take any combination of these actions. No depositions shall be permitted for the purpose of discovery; however, the hearing officer may authorize depositions of witnesses who, in his opinion, for good cause shown cannot be present at the hearing. A hearing officer shall preside at the hearing, shall keep order, administer oaths, may issue subpoenas, and may admit relevant and probative evidence, and shall conduct the hearing in accordance with reasonable administrative practice.

(5) All testimony at the hearing shall be recorded.

(6) The hearing officer may place reasonable time limits upon the presentation of testimony, evidence and argument, and may terminate or exclude irrelevant or redundant evidence, testimony, or argument.

(7) Within thirty (30) days of adjournment of the hearing, the hearing officer shall make written findings of fact, conclusions of law, and a final decision based upon the record of the proceeding.

DARVIN ALLEN, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: November 5, 1990
FILED WITH LRC: November 8, 1990 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 27, 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 December 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: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street - 4 West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Darvin Allen
(1) Type and number of entities affected: Approximately 2,500 Kentucky employers.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: There will be a $100 tax credit per eligible hire issued for every employee that qualifies under KRS 141.065.
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: Employers fill out top of application numbers 1 through 6 and sign application on bottom.
(2) Effects on the promulgating administrative body: It is not anticipated that there will be any increased expenditure of administrative cost as a result of this administrative regulation.
(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: Review and verify that all requirements are met on applications submitted by employers and mail appropriate correspondence, e.g., certificate or denial.
(3) Assessment of anticipated effect on state and local revenues: Slight decrease in the issuance of state tax credits.
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: None
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: None
(6) Any additional information or comments:
TIERING: Was tiering applied? No. All employers are treated equally.

CABINET FOR HUMAN RESOURCES
Department for Social Insurance

904 KAR 2:026. Repeal of 904 KAR 2:025.

RELATES TO: KRS 205.715 to 205.800, 403.210, 403.215, 405.450 to 405.530, 530.050
STATUTORY AUTHORITY: KRS 194.050, 405.520
NECESSITY AND FUNCTION: The Cabinet for Human Resources is authorized by KRS Chapters 194 and 405 to operate public assistance programs and to promulgate regulations necessary for the administration of its program. Regulation 904 KAR 2:025 was promulgated to establish by administrative regulation the Kentucky Child Support Guidelines. The 1990 Kentucky General Assembly established Kentucky Child Support Guidelines as part of KRS Chapter 403. Therefore, 904 KAR 2:025 is no longer necessary.

Section 1. 904 KAR 2:025 is hereby repealed.

MIKE ROBINSON, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: October 25, 1990
FILED WITH LRC: November 8, 1990 at 10 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 27, 1990 at 9 a.m. in the Department for Employment Services Conference Room. Individuals interested in attending this hearing shall notify this agency in writing by December 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: 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:
(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: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. Federal and state statutes mandate that administrative process of child support be implemented in a like manner on a statewide basis, thereby prohibiting tiering.

CABINET FOR HUMAN RESOURCES
Department for Social Insurance

904 KAR 2:026. Repeal of 904 KAR 2:025.

RELATES TO: KRS 205.715 to 205.800, 403.210, 403.215, 405.450 to 405.530, 530.050
STATUTORY AUTHORITY: KRS 194.050, 405.520
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MIKE ROBINSON, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: October 25, 1990
FILED WITH LRC: November 8, 1990 at 10 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on December 27, 1990 at 9 a.m. in the Department for Employment Services Conference Room. Individuals interested in attending this hearing shall notify this agency in writing by December 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: 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:
(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: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. Federal and state statutes mandate that administrative process of child support be implemented in a like manner on a statewide basis, thereby prohibiting tiering.

CABINET FOR HUMAN RESOURCES
Office of Inspector General

906 KAR 1:070. Networks.

RELATES TO: KRS 216.900 through 216.915
STATUTORY AUTHORITY: KRS 216.915
NECESSITY AND FUNCTION: KRS 216.915 mandates that the Cabinet for Human Resources promulgate regulations necessary to implement health care delivery networks. This regulation responds to provisions of KRS 216.905 which requires obtaining a license from the cabinet before operating or maintaining a network.

Section 1. Licensing Issuance. (1) The network shall be licensed in accordance with 902 KAR 20:008.
(2) The network shall designate a specific address to which the license shall be issued which shall be the primary location. The licensee may also designate one (1) extension per physician employed by the network to be included as a part of the network's license.

Section 2. Administration. (1) Policies. The network shall establish and follow written administrative policies covering all aspects of operation, including:
(a) A description of organizational structure, staffing and allocation of responsibility and accountability;
(b) A description of linkages with inpatient facilities and other providers;
(c) A written program narrative describing in detail the service(s) offered, methods and protocols for service delivery, qualifications of personnel involved in the delivery of the services, and goals of the service(s);
(d) Procedures to be followed relating to the storage, handling and administration of drugs and biologicals;
(g) A description of the process utilized by the network to evaluate the health care needs of its community and the network's response to these needs; and
(h) A description of how the network will assure twenty-four (24) hour seven (7) day per week access to health care for its patients.
(2) Personnel.
(a) Medical director. The network shall have a medical director who is a licensed physician responsible for all medical aspects of the network.
(b) Staffing requirements.
1. The number of personnel required shall be based on: the number of patients, amount and type of care provided, program needed to meet the needs of patients as determined by the

definitions of care and services required by this regulation and the statutes relating to networks.

2. There shall be written personnel policies which are made available to all employees.

(c) There shall be a written job description for each position which shall be reviewed and revised as necessary.

(d) Current personnel records shall be maintained for each employee which include the following:

1. Name, address and social security number;

2. Evidence of current registration, certification or licensure of personnel;

3. Records of training and experience; and

4. Records of performance evaluation.

(3) In-service training. All personnel shall participate in ongoing in-service training programs relating to their respective job activities. Training shall include a thorough job orientation for new employees.

(4) Medical records.

(a) The network shall maintain medical records in the problem-oriented format and shall contain the following:

1. Medical or social history relevant to the services provided including data obtainable from other providers;

2. Name of referring physician, and any orders for special diagnostic services;

3. Description of each medical visit or contact, to include condition or reason necessitating visit or contact, assessment, diagnosis, services provided, medications and treatments prescribed, medical personnel involved and disposition made;

4. Reports of all physical examinations, laboratory and other test findings relevant to the services provided; and

5. Documentation of all referrals made, including reason for referral, to whom patient was referred, and any information obtained from referral source.

(b) Confidentiality of all patient records shall be maintained at all times.

(c) Transfer of records. The network shall establish systematic procedures to assist in continuity of care where the patient moves to another source of care, and the network shall, upon proper release, transfer medical records or an abstract thereof when requested.

(d) Retention of records. After patient's death or discharge the completed medical record shall be placed in an inactive file and retained for five (5) years or in case of a minor, three (3) years after the patient reaches the age of majority under state law, whichever is longer.

(e) A specific location shall be designated by the network for the storage and maintenance of medical records.

(f) Provision shall be made for written designation of a specific location for the storage of medical records in the event the network ceases to operate. The licensee shall safeguard the record and its content against loss, defacement and tampering.

Section 3. Provision of Services. (1) Equipment used for direct patient care by a network shall comply with the following:

(a) The licensee shall establish and follow a written preventive maintenance program to ensure that equipment shall be operative and properly calibrated;

(b) All personnel engaged in the operation of diagnostic equipment shall have adequate training and be currently licensed, registered or certified in accordance with applicable state statutes and regulations; and

(c) There shall be a written training plan for the adequate training of personnel in the safe and proper usage of the equipment.

(2) Diagnostic services shall be performed in accordance with the network's protocol, and developed by the medical director. Examination services shall be provided in a manner which ensures the greatest amount of safety and security for the patient.

(3) Treatment services shall be performed in accordance with the network's protocols.

(a) The work shall have a written description of the services the network provides directly and those provided through agreement;

(b) The network shall develop and maintain written protocols (i.e. standing orders, rules of practice, and medical directives) which apply to services provided by the network and which explicitly direct the step-by-step collection of subjective and objective data from the patient. The protocols shall further direct data analysis, direct explicit medical action depending upon the data collected, and include rationale for each decision made.

(c) If the network dispenses medication, each dose of medication given, and the name and qualifications of the personnel who gave the medication, shall be recorded in the patient's record.

(4) Quality assurance and annual evaluation.

(a) The network shall carry out, or arrange for an annual evaluation of its total program, shall consider the findings of the evaluation, and take corrective action, if necessary. The evaluation shall include:

1. The utilization of network's services including at least the number of patients served and the volume of services;

2. A representative sample of both active and closed clinical records; and

3. The networks health care policies.

(b) Quality assurance program. The network shall have a written quality assurance plan designed to ensure that there is an ongoing quality assurance program that includes effective mechanisms for reviewing and evaluating patient care, and that provides for appropriate response to findings. The written quality assurance plan shall be approved by the board and the licensee and shall:

(a) Assign responsibility for the monitoring and evaluation activities;

(b) Delineate scope of care provided by the network;

(c) Identify the aspects of care that the network provides;

(d) Identify indicators (and appropriate clinical criteria) that can be used to monitor these aspects of care;

(e) Establish thresholds for the indicators at which further evaluation of the care is triggered;

(f) Collect and organize the date for each indicator;

(g) Evaluate the care when the thresholds are reached in order to identify problems or opportunities to improve care;

(h) Take actions to correct identified problems or to improve care;

(i) Assess the effectiveness of the actions and document the improvement in care; and

(j) Communicate relevant information to other individuals, departments, or services as to the network wide quality assurance program.

Section 4. Housekeeping and Maintenance Services. (1) Housekeeping. The clinic shall maintain a clean and safe facility free of unpleasant odors. Odors shall be eliminated at their source by prompt and thorough cleaning of commodes, urinals, bedpans and other sources.

(2) Maintenance. The premises shall be well kept and in good repair. Requirements shall include:

(a) The network shall insure that the grounds are well kept and the exterior of the building, including the sidewalks, steps, porches, ramps, and fences are in good repair;

(b) The interior of the building including walls, ceilings, floors, windows, window coverings, doors, plumbing and electrical fixtures shall be in good repair. Windows and doors which can be opened for ventilation shall be screened;

(c) Garbage and trash shall be removed from the premises regularly. Containers shall be cleaned regularly;

(d) A pest control program shall be in operation in the clinic. Pest control services shall be provided by maintenance personnel of the facility or by contract with a pest control company. The compounds shall be stored under lock.

CLAY CESSNA, Inspector General
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: November 6, 1990
FILED WITH LRC: November 14, 1990 at 11 a.m.
PUBLIC HEARING: A public hearing on this regulation has been scheduled for December 27, 1990, at 9 a.m. in the Department for 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 December 22, 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: Eric Friedlander
(1) Type and number of entities affected: Unknown, probably less than 10.

(a) Direct and indirect costs or savings to those affected: Minimum standards for new entities may cause additional costs to be incurred beyond "start up" costs for networks - without existing entities to make comparisons, additional costs will be difficult to determine.

1. First year: Unknown.
2. Continuing costs or savings: Licensure fees will be $80 per year.
3. Additional factors increasing or decreasing costs (note any effects upon competition): Unknown.

(b) Reporting and paperwork requirements: Required documentation in minimum standards and additional paperwork caused by the inspection process will increase the reporting and paperwork requirements over what would be expected if these were unregulated entities.

(2) Effects on the promulgating administrative body: Additional oversight and inspection of networks.

(a) Direct and indirect costs or savings: The costs are unknown at this point. This will cause an increase in the workload for the Division for Licensing and Regulation, but until the number of entities is known the actual cost is impossible to determine. The division will make every attempt to incorporate this workload into existing responsibilities.

1. First year: Unknown.
2. Continuing costs or savings: Unknown.
3. Additional factors increasing or decreasing costs: Unknown.

(b) Reporting and paperwork requirements: Unknown.

(3) Assessment of anticipated effect on state and local revenues: Increase in licensure fees collected, but the number of entities is unknown.

(4) Assessment of alternative methods; reasons why alternatives were rejected: The Cabinet for Human Resources was directed by SB 239 to promulgate regulation.

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. These are licensure standards and as such relate to all entities equally.

REPRINT

COMPILER'S NOTE: The following regulation is being reprinted to reflect correct fee amounts for construction/demolition debris landfill receiving 200 or more tons per day ($3,000) and contained landfill ($3,000). These fees, in Section 2(4), were erroneously printed as $500 in the April, 1990 Administrative Register. The regulation, as filed by the Natural Resources and Environmental Protection Cabinet, provided for the $3,000 fees. The legislative subcommittees considering this regulation reviewed the original correct copy.

401 KAR 47:090. Solid waste permit fees.

RELATES TO: KRS 224.846, 224.855
STATUTORY AUTHORITY: KRS 13A.210, 224.033
NECESSITY AND FUNCTION: KRS 224.033(20) states that the cabinet may provide by regulation for a reasonable schedule of fees for the cost of processing applications for permits, exemptions, and partial exemptions. This chapter establishes standards for solid waste sites or facilities. The purpose of this regulation is to establish a fee schedule for the issuance and modification of solid waste disposal permits or variances.

Section 1. Applicability. (1) The provisions of this regulation shall apply to the owner or operator of each solid waste site or facility required to apply for a permit, permit renewal or exemption, except publicly-owned facilities.

(2) The provisions of this regulation shall apply to solid waste site or facility permit applications submitted on or after the effective date of this regulation, and to such applications which are not complete as determined by the cabinet, by the effective date of this regulation. Solid waste site or facility permit applications which are complete as determined by the cabinet, by the effective date of this regulation, shall be subject to the provisions of 401 KAR 47:090E as in effect on January 16, 1990.

Section 2. Filing Fees. (1) Any owner or operator may submit a notice of intent to apply for a solid waste facility permit, permit modification, or variance for initial review and shall include with the notice of intent to apply a check or money order for the filing fee determined by the schedule below:

Application Type	Fee
Review of the notice of intent to apply to determine site suitability	$500
Preliminary permit modification application review to determine site suitability for expansion	$500
Preliminary request for variance of design criteria	$500

(2) Any owner or operator who submits an administrative phase of a permit application for a new solid waste site or facility or an application for expansions to existing facility sites shall include with the application a check or money order for the filing fees determined by this subsection.

(a) The filing fees listed below for the administrative phase of a permit application shall be submitted with the application:

Solid Waste Facility Type	Fee
Construction/demolition debris landfill	$ 5,000
Contained landfill	$10,000
Residual landfill	$ 2,500

(b) Any owner or operator who submits a technical phase of a permit application for a solid waste site or facility shall include with the application the filing fee listed below:

Solid Waste Facility Type	Fee
Construction/demolition debris landfill	$5,000
Contained landfill	$5,000
Residual landfill	$2,500

(3) Upon notification to the cabinet that construction for any phase has been completed, any owner or operator who notifies the cabinet that the facility has been constructed and requests the issuance of a permit to operate, or a modification to a permit to operate a solid waste site or facility, shall include with the request a check or money order in the amount of the filing fee, assessed in accordance with the following schedule:

Solid Waste Facility Type	Fee
Contained landfill	$800
Residual landfill	$500
Residential landfill	$500
Landfarming facility	$500
Inert landfill	$200
Construction/demolition debris landfill	$500

(4) Any owner or operator who submits an application for renewal of an existing solid waste facility permit, shall include with the application a check or money order in an amount equal to the number of years for which the facility permit shall be renewed multiplied by the amounts listed below:

Solid Waste Facility Type	Amount per Year
Inert landfill	$ 300
Residential landfill receiving less than 200 tons per day	$ 500
Residential landfill receiving 200 or more tons per day	$3,000
Construction/demolition debris landfill receiving less than 200 tons per day	$ 500
Construction/demolition debris landfill receiving 200 or more tons per day	$3,000
Contained landfill	$3,000
Residual landfill	$ 500
Landfarming facility	$ 300

(5) Any renewal for a construction permit for which fees are not required under subsection (4) of this section shall be $500.

(6) Any owner or operator who submits an application for a solid waste facility permit modification shall include with the application a check or money order for the fee listed below:

(a) $1,000 for modifications involving operating methods or proposed closure.
(b) $50 for modifications for additional wastes not listed in the approved permit application.
(c) $500 for a request for variances from existing permit requirements.
(d) $500 for change of ownership of an existing permitted facility.
(7) Any owner or operator who submits an application for the following permits shall include a check or money order as listed below:
(a) $1,000 for application for closure of a solid waste site not under a current solid waste facility permit.
(b) $500 for application for approval of emergency permits.
(c) $500 for application for approval of research, development and demonstration permits.
(d) $5,500 for application for approval of landfarming permits.
(8) Filing fees are not refundable if an application for a permit, modification, or variance is denied or an application is withdrawn after the review is initiated.
(9) Submittal of fees. The required fees shall be submitted to the cabinet. All checks or money orders shall be made payable to the Kentucky State Treasurer. (16 Ky.R. 1732; Am. 2182; eff. 5-8-90.)

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
Minutes of the November 7 & 8, 1990 Meeting

The November meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, November 7, 1990 at 2 p.m. and on Wednesday, November 8, 1990 at 10 a.m. in Room 110 of the Capitol Annex. Representative Mark D. O'Brien, Chairman, called the meeting to order, and the secretary called the roll. The minutes of the October 11 and 12, 1990 meeting were approved.

Present November 7, 1990 were:

Members: Representative Mark D. O'Brien, Chairman; Senators Gene Huff, Pat McCuiston, and Bill Quinlan; Representatives Jim Bruce, Tom Kerr and Ronny Layman.

Present November 8, 1990 were:

Members: Representative Mark D. O'Brien, Chairman; Senators Gene Huff, Pat McCuiston and Bill Quinlan; Representatives Jim Bruce, Ronny Layman and Tom Kerr.

Guests: Representative John Harper; Tommy Greenwell, Chuck Vineyard, Dan Egbers, Department of Personnel; Arthur Hatterick, Jr., Personnel Board; Scott Akers, Ray Kring, Ed Mattingly, Joe G. Hall, Revenue Cabinet; Susan Stopher, Richard Carroll; Board of Accountancy; George Wright, Ron Pritchert, Department of Fish and Wildlife Resources; Hisham Saaid, Gregory Copley, Kenneth Hines, Martha L. Hall, Eva Smith Carroll, Division of Air Quality; Mike Bradley, Corrections Cabinet; Sandy Pullen, Transportation Cabinet; Gary Bale, Diane Teasley, Bob Coakley, Melissa Briscoe, Department of Education; Hanson Williams, Dwayne T. Gatewood, Kentucky Workforce Development Cabinet; Catherine Staib, Alcoholic Beverage Control; Thomas W. Stout, Rick Jones; Financial Institutions; Janice Kline, Gail Lanham, Anne Hager, Barbara Coleman, Judy Trigg, Cabinet for Human Resources; Michael W. Wooden, Humana Inc.; Bill Doll, Kentucky Medical Association; Jim Byrum, Kentucky Education Association; Melina Digenis, Janet W. Cline, Kentucky Society Hospital Pharmacists; Dennis Russ, Kent Gregory, Falls City RDF, Inc.; Sarah S. Nicholson, Nancy Galvagni, Kentucky Hospital Association.

LRC Staff: Susan Wunderlich, Joe Hood, Gregory Karambellas, Peggy Jones, and Susan Eastman.

The Subcommittee determined that the following administrative regulations did not comply with statutory authority:

Department of Personnel: Classified

101 KAR 2:035 (Compensation plan and pay incentive systems.) This regulation is similar to one that was found deficient during the last interim. The reason for the finding of deficiency was the implementation of the Outstanding Merit Increase (OMI) program which the Subcommittee determined violated KRS Chapter 18A which required salary advancements to be based upon evaluations. In addition, the previous regulation had been objected to because of the use of the word "permanent" in reference to state employees; the restriction of educational achievement awards to employees who had not received state tuition assistance; the method of calculation of the lump sum award; and, the limitation of outstanding merit increases to a specific percentage of state employees. Language in the previous regulation restricting the awards on the basis of state tuition assistance, and to a specific percentage of employees is not contained in this regulation.

The Subcommittee noted that the OMI program was specifically authorized by the budget bill enacted during the 1990 Regular Session. Representative Kerr stated that questions had been raised as to whether the budget bill specifically suspended or exempted the OMI program from the provision of KRS 18A.112; and, on the use of the word "bonus" in the budget bill. It was pointed out that KRS 48.310(2) permits the exemption of the budget bill from the operation of a statute, but that the budget bill was not specifically exempted from the operation of KRS 18A.112(2). Also, the context of the budget bill clearly indicated that a raise was intended. Representative Kerr added that "bonus" may raise constitutional questions under Section 3 of the Kentucky Constitution. On Representative Kerr's motion, the Subcommittee approved a motion recommending that LRC ask the Statute Reviser and appropriate committee staff to review the use of such language.

Personnel Board staff objected to Sections 3(5), 4(3)(e), and 5(6)(a), relating to detail to special duty on the grounds that there was no specific statutory authorization and that detail to special duty often was employed to demote employees. Chairman O'Brien stated that detail to special duty may not be specifically authorized by statute, but that it was essential to the implementation of KRS Chapter 18A. If an agency is required to perform a duty or to implement a statute, implied authority to promulgate a regulation exists, since the only method by which it may perform its duty is through administrative regulations. In addition, any abuse of detail to special duty would be subject to appeal to the Board by state employees. He added that KRS Chapter 18A should be amended to provide specific authorization for the Commissioner to promulgate regulations relating to detail to special duty, and to provide restrictions on its use. Board staff also objected to Section 5(1), because it did not require that educational courses be approved prior to an employee beginning course word under the Educational Achievement Award program. Board staff also objected to Section 3(8)(a) because it did not set out criteria to be followed by the Department in its determination that a salary advancement due to promotion, reallocation, etc. should have been made. Subcommittee members stated that criteria are used by the Department, and such criteria determine whether or not the salary advancement should have been made. Use of such criteria is an interpretation of law, or a prescription of law or policy, and must be contained in an administrative regulation as required by KRS 13A.120 and 13A.130.

The members of the Subcommittee agreed with the objections raised and approved a motion that this regulation did not conform to KRS Chapters 18A and 13A.

101 KAR 2:045 (Applications, qualifications and examinations.) This regulation was similar to one found deficient during the last interim. It had been found deficient because it provided for a Job Bank which was felt to violate the requirement of KRS Chapter 18A for hiring by

competitive examination. KRS 18A.010(1) requires that classified service positions be filled after competitive examination. Other sections of KRS Chapter 18A provide for specific exemptions to this rule. This regulation does not contain a reference to Job Bank; however, it provides for the exemption of certain specified positions from competitive examination and permits them to be filled on the basis of criteria such as job experience, education, etc. It was pointed out that the Department added this section to comply with a request of the Interim Joint Committee on State Government; and, had received an opinion from the Attorney General's office permitting such exceptions. However, the statutes upon which the AG Opinion was based do not authorize this section.

Chairman O'Brien stated that KRS Chapter 18A should be amended to authorize the filling of positions for which competitive examination is unnecessary or inappropriate, and for which qualification can be determined by education or job experience since no adequate standardized test is available or necessary. The Department pointed out that it would not be possible to list every job and qualification. The Department was informed that: (1) it would have to base any decision on established criteria; and, (2) these criteria are required by KRS 13A.120 and 13A.130 to be promulgated in a regulation if they do not appear in the statutes.

Personnel Board staff objected to the failure to specify factors used in ratings, evaluations, and appraisals of examinations, education, experience, age, etc. Board staff stated that the Department did have policies governing this matter that did not appear in any regulation. The Department believed that such factors related to internal management and were therefore exempted by KRS 13A.010(2)(a). It was pointed out that these were not matters of internal management because their use affected rights and benefits, and that if an item met the definition of an administrative regulation it would have to appear in an administrative regulation.

Board staff also objected to Section 12 because it related to action that may be taken by the Board. It was pointed out that the Department had no authority to promulgate a regulation relating to or governing action by the Board. The Department agreed to amend this regulation by deleting Section 12.

On Chairman O'Brien's motion, the Subcommittee determined that this regulation did not conform to statutory authority.

101 KAR 2:055 (Registers and job bank service.) This regulation was similar to one found deficient during the last interim. It had been found deficient because it provided for a Job Bank which was felt to violate the requirement of KRS Chapter 18A for hiring by competitive examination. KRS 18A.010(1) requires that classified service positions be filled after competitive examination. Other sections of KRS Chapter 18A provide for specific exemptions to this rule. It was pointed out that KRS Chapter 18A needed to be amended after determination of whether vacancies could be filled by: (1) preference being given to state employees; or, (2) competitive examination only.

Personnel Board staff stated that the use of the Job Bank was in effect a regulation governing promotions, and that promotions were under the jurisdiction of the Board. The Department stated that the Job Bank was used to promote internal mobility and affirmative action. It was pointed out that internal mobility and affirmative action should be accomplished in a separate regulation, and according to the restrictions established by KRS Chapter 18A.

Board staff objected to the use of the term "merit status" in Section 7, because status is defined by KRS Chapter 18A. The Department stated that the use of the term was done to distinguish employees of the classified service from employees in the unclassified service, for placement on promotional registers. The Department was informed that requirements for unclassified employees are to be contained in a separate chapter and not in the chapter relating to classified service employees. The Department agreed to delete the word "merit".

On Chairman O'Brien's motion, the Subcommittee determined that this regulation did not conform to statutory authority.

101 KAR 2:065 (Certification and selection of eligibles for appointment.) This regulation is similar to a regulation that was found deficient during the last interim. The language found deficient, requiring participation in certain state and federal programs, does not appear in this regulation.

Personnel Board staff objected to the repetition or summary of various sections of KRS Chapter 18A. It had been argued that KRS Chapter 18A requires the promulgation of regulations even though the subject matter may be completely dealt with in KRS Chapter 18A. It was pointed out that KRS 13A.120(2)(e),(f) governs and that a regulation shall not contain language that repeats or summarizes statutory language. It was recommended that KRS Chapter 18A be amended to delete redundant language.

On Chairman O'Brien's motion, the Subcommittee determined that this regulation did not conform to statutory authority.

101 KAR 2:075 (Vacancies, detail to special duty and temporary overlap.) This regulation is similar to one that was found deficient during the last interim. The reason for the deficiency related to language that did not contain an exception to the filling of vacancies that would comply with the right of career and laid-off employees to priority in hiring granted in KRS 18A.135. This regulation contains the same language as the previous regulation.

Board staff objected to language relating to detail to special duty. See discussion of this matter under 101 KAR 2:035.

On Chairman O'Brien's motion, the Subcommittee determined that this regulation did not conform to statutory authority.

Department of Education: Office of Instruction: Instructional Services

704 KAR 3:410 (Preschool education program for four year old children.) Representative John Harper testified that he had met with Department of Education personnel concerning the identification of children who are at risk for inclusion in the preschool program. He stated that no agreement was reached to use surplus funds for other at-risk children who are not on the free lunch program where there are vacancies in classrooms. Representative Harper said that the free lunch program should be open to all students or no students, and that the General Assembly should look into this inequity. The

Subcommittee passed a motion to attach a letter of objection to this regulation, commenting that the statutes involved need to be reviewed and clarified during the next regular session.

The Subcommittee determined that the following administrative regulations, as amended, complied with KRS Chapter 13A:

Department of Personnel: Classified

101 KAR 2:095 (Classified service regulations.) This regulation is similar to one that was found deficient during the last interim because it repeated or summarized language found in KRS Chapter 18A which violated KRS Chapter 13A.

Personnel Board staff objected to the repetition and summary of statutory language; to Section 1, relating to employee tenure; to Section 6(3) relating to employee records because it repeated language found in KRS 18A.020; and to the absence of a definition of "work station". Board staff stated that a definition is needed in order to prevent the use of transfers from one work station to another in violation of an employee's rights. Board staff was informed that KRS Chapter 18A did restrict certain transfers. With regard to Section 1, it was pointed out to Board and Department staff that neither agency may promulgate a regulation containing the statement relating to tenure because that language is found in KRS Chapter 18A.

The Department agreed to delete Sections 1 and 6(3).

Revenue Cabinet: Sales and Use Tax: General Exemptions

103 KAR 30:091 (Sales to farmers.) This regulation was amended to delete language quoting and paraphrasing the statutes. Other editorial corrections were made to comply with the requirements of KRS Chapter 13A.

General Government Cabinet: Board of Accountancy

201 KAR 1:068 (Quality enhancement program.) Chairman O'Brien stated that agency personnel would meet with Subcommittee staff to revise the Board's regulations to conform to the format requirements of KRS Chapter 13A. This regulation was amended to delete the words "annually thereafter" and to insert in lieu thereof the words "in accordance with Section 4 of this regulation".

Natural Resources & Environmental Protection Cabinet: Department for Environmental Protection: Division for Air Quality: New Source Standards

401 KAR 59:021 (New solid waste incinerators.) Kentucky Method 23, incorporated by reference in this regulation, was amended to delete "October" and replace it with "December"; to delete the phrase "for low level samples or Table 3 in Section 11 for high level samples" in Table 2; and to delete existing Table 2 on page 23-18 and replace it with a new Table 2. The regulation was amended to change the edition date of Kentucky Method 23 from October to December.

Corrections Cabinet: Office of the Secretary

501 KAR 6:030 (Kentucky State reformatory.) This regulation was amended to delete "by" and insert in lieu thereof "of" in the Necessity and Function paragraph.

501 KAR 6:040 (Kentucky State penitentiary.) This regulation was amended to delete "by" and insert in lieu thereof "of" in the Necessity and Function paragraph.

501 KAR 6:160 (Correctional industries.) Section 1 of this regulation was amended to delete "should" and to insert in lieu thereof "shall" in accordance with KRS 13A.222(4)(b).

Transportation Cabinet: Department of Vehicle Regulation: Driver Improvement

601 KAR 13:070 (School attendance and academic sufficiency verification.) An objection had been raised in the initial review to the petition process established by Section 7 because it did not appear to be specifically authorized by statute. Refusal to allow petition, which is allowed for those who had a license and lost it because of the educational requirements, could raise constitutional questions relating to equal protection. Therefore, the same treatment is applied to those who did not have a license but were denied one because of educational requirements.

An objection was made to the fees required by Section 6. This section established the fees to be paid by students who had not completed educational requirements, but were eligible for the restoration of their driving privileges because they had reached 18. It provided that such students would pay the reinstatement fee of $5 provided by KRS 186.440(12) and the $25 instruction permit fee provided by KRS 186.450(1).

It was pointed out that KRS 186.440(12) does not permit charging such a student the $5 reinstatement fee; and that KRS 186.450(1) would permit charging the $25 instruction permit fee if driving privileges were restored within one year of suspension (for failure to meet educational requirements).

Because the cost of compliance with these sections would be excessive, the Cabinet amended Section 6 to delete the requirement that such a student pay either fee.

Department of Education: Office of School Administration and Finance: School District Finance

702 KAR 3:010 (Guidelines for use of capital outlay funds.) This regulation was technically amended to clarify that "SEEK" means Support Education Excellence in Kentucky.

702 KAR 3:070 (Teachers' salary scheduling.) This regulation was technically amended to clarify that "SEEK" means Support Education Excellence in Kentucky.

702 KAR 3:100 (Data form, professional staff.) This regulation was amended to incorporate the Department's professional staff data form by reference.

702 KAR 3:110 (Document filing dates.) This regulation was amended to incorporate the Annual Financial Report and the Working Budget forms by reference.

Public Protection and Regulation Cabinet: Department of Financial Institutions: Administration

808 KAR 1:050 (Retention of records.) Section 2 of this regulation was amended by replacing the word "effective" with the word "dated" for clarification. The material incorporated by

reference was amended to comply with the recordkeeping provisions of KRS 287.375(2).

Credit Unions

808 KAR 3:020 (Record retention schedule.) Section 2 of this regulation was amended by replacing the word "effective" with the word "dated" for clarification.

The Subcommittee determined that the following regulations complied with KRS Chapter 13A:

Department of Personnel: Classified

101 KAR 2:100 (Leave regulations.) Personnel Board staff objected to Section 5 governing military leave for the ten-day annual training required of reservists and the National Guard. Board staff believed that language in this section repeated or summarized language found in KRS 61.373; and that KRS Chapter 61 granted authority to the Board to promulgate regulations relating to military leave. The Department stated that KRS 18A.110(1)(h) granted authority to the Department to regulate military leave.

Board and Department staff were informed that KRS Chapter 61 related to military leave for the two-year service requirement, and that no statute specifically mentioned the annual two-week military service requirement. Section 5 of this regulation related to the two-week annual leave service requirement. Chairman O'Brien stated that KRS Chapters 18A and 61 should be amended to provide for jurisdiction over military leave to either the Board or the Department and to include both types of military leave.

The Subcommittee approved a motion requesting LRC to refer this issue to the appropriate legislative subcommittee.

Unclassified

101 KAR 3:010 (Leave regulations for unclassified service.) Issues raised concerning this regulation were the same issues raised on 101 KAR 2:100. See discussion above.

101 KAR 3:045 (Unclassified service; classification and compensation incentive systems.)

Revenue Cabinet: Income Tax; Withholding

103 KAR 18:110 (Withholding methods.)

Selective Excise Tax - Miscellaneous

103 KAR 44:040 (Motor vehicle valuation.)

General Government Cabinet: Board of Accountancy

201 KAR 1:100 (Continuing professional education requirements.)

Tourism Cabinet: Department of Fish and Wildlife Resources: Game

301 KAR 2:044 (Taking of migratory wildlife.)

301 KAR 2:140 (Seasons for wild turkey.)

Natural Resources and Environmental Protection Cabinet: Department for Environmental Protection: Division for Air Quality: General Administrative Procedures

401 KAR 50:010 (Definitions and abbreviations of terms used in Title 401 Chapters 50, 51, 53, 55, 57, 59, 61, 63, and 65.)

New Source Requirements; Nonattainment Areas

401 KAR 51:010 (Attainment status designations.) Agency staff were notified that an appendix should be incorporated by reference, or set out as a separate section or sections in an administrative regulation. Under KRS Chapter 13A, an item cannot simply be attached to an administrative regulation as an appendix, but must be contained within it or incorporated by reference. In addition, Chairman O'Brien stated that agency staff would be working with Subcommittee staff on corrections to citations to federal law or regulation.

Existing Source Standards

401 KAR 61:011 (Existing solid waste incinerators.)

Transportation Cabinet: Office of Minority Affairs

600 KAR 4:010 (Certification of disadvantaged, minority and women business enterprises.)

Department of Highways: Traffic

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

603 KAR 5:111 (Permits for moving mobile homes in excess of fourteen (14) feet in width.)

603 KAR 5:230 (Bridge weight limits on the extended weight coal or coal haul road system.)

Department of Education: Office of School Administration and Finance: School District Finance

702 KAR 3:020 (Bond issue approval.)

702 KAR 3:040 (Check issuing policy.)

702 KAR 3:045 (Withholding funds.)

702 KAR 3:050 (Application to exceed budget.)

702 KAR 3:060 (Procedure for payment of employment.)

702 KAR 3:075 (Substitute teachers' salary scheduling.)

702 KAR 3:080 (Treasurer's bond, penal sum.)

702 KAR 3:090 (Depository bond, penal sum.)

702 KAR 3:170 (Educational television equipment purchases.)

702 KAR 3:230 (Vocational allocations of add-on SEEK funds.)

WORKFORCE DEVELOPMENT CABINET

Department for Adult and Technical Education

Unclassified Personnel Regulations

780 KAR 6:010 (Classification plan.)

780 KAR 6:020 (Compensation plan.)

780 KAR 6:030 (Appointments.)

780 KAR 6:040 (Special appointments.)

780 KAR 6:050 (Probationary periods.)

780 KAR 6:060 (Attendance.)

780 KAR 6:070 (Records and reports.)

780 KAR 6:080 (Employee actions.)

780 KAR 6:090 (Disciplinary actions.)

780 KAR 6:100 (Appeals and hearings.)

Public Protection and Regulation Cabinet: Department of Alcoholic Beverage Control: Licensing

804 KAR 4:110 (Dormant license renewal.)

Cabinet for Human Resources: Department for Social Insurance: Public Assistance

904 KAR 2:006 (Technical requirements; AFDC.)

904 KAR 2:016 (Standards for need and amount; AFDC.)

904 KAR 2:022 (Kentucky administrative process for child support.)

The following regulations were deferred at the promulgating agency's request:

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.

Board of Medical Licensure
201 KAR 9:305 (Recertification of athletic trainers.)

Natural Resources & Environmental Protection Cabinet: Department for Environmental Protection: Division of Waste Management
Underground Storage Tanks
401 KAR 42:011 (Definitions of terms used in 401 KAR Chapter 42, program scope, and interim prohibition.)
401 KAR 42:030 (General operating requirements.)
401 KAR 42:040 (Release detection.)
401 KAR 42:050 (Release reporting, investigation, and confirmation.)
401 KAR 42:060 (Release response and corrective action for UST systems containing petroleum or hazardous substances.)
401 KAR 42:090 (Financial responsibility.)
Division for Air Quality: New Source Standards
401 KAR 59:023 (New medical waste or hazardous waste incinerators.)
Existing Source Standards
401 KAR 61:013 (Existing medical waste and hazardous waste incinerators.)

Department of Education: Office of Education for Exceptional Children: Exceptional and Handicapped Program
707 KAR 1:051 (Exceptional children's programs.)

Cabinet for Human Resources: Department for Human Resources: Health Services and Facilities
902 KAR 20:048 (Operation and services; nursing homes.)
902 KAR 20:051 (Operation and services; intermediate care.)
902 KAR 20:086 (Operation and services; intermediate care facilities for the mentally retarded and developmentally disabled.)

The Subcommittee had no objections to emergency regulations which had been filed.

OTHER BUSINESS

Revenue Cabinet: Department of Administrative Services
103 KAR 7:025 (Life expectancy table.) Chairman O'Brien stated that, because of the number of other items considered, the Subcommittee failed to make a recommendation concerning this regulation when it was considered at its June 1990 meeting. This regulation incorporated certain U.S. mortality tables required by KRS 140.100(2). Applicable statutes require the Department of Insurance to calculate the value of future, contingent or limited estates, and income or interest including life estates and annuities, for the Revenue Cabinet, by application of appropriate U.S. mortality tables. The Department of Insurance had not promulgated a regulation incorporating such tables by reference. Because they were necessary, the Revenue Cabinet promulgated this regulation.

Pursuant to KRS 13A.030(1)(c), the Subcommittee approved a motion to inform LRC that this regulation did not conform to statutory authority; and, since it appeared that the Department of Insurance believed this was a function more properly assigned to the Revenue Cabinet, this matter should be referred to the appropriate legislative subcommittee for legislation amending KRS Chapter 140 to transfer this function to the Revenue Cabinet.

PUBLIC PROTECTION AND REGULATION CABINET: KENTUCKY RACING COMMISSION
810 KAR 1:003 (Licensing.)
810 KAR 1:006 (Racing associations.)

When these regulations were reviewed, the Subcommittee determined that they did not conform to statutory authority because the Racing Commission did not have authority to restrict the common law right of racing associations to exclude people from their tracks. Because it appeared that the Commission may selectively enforce these regulations, the Subcommittee requested that the Commission inform them: (1) if it intends to selectively enforce them; and, (2) notified the Commission that selective enforcement is improper and that a regulation must be amended before its terms may be altered.

The Subcommittee adjourned at 10:30 a.m. until December 4, 1990 at 2 p.m.

OTHER COMMITTEE REPORTS

COMPILER'S NOTE: In accordance with KRS 13A.290(9), the following reports were forwarded to the Legislative Research Commission by the appropriate jurisdictional committees and are hereby printed in the Administrative Register. The administrative regulations listed in each report became effective upon adjournment of the committee meeting at which they were considered.

INTERIM JOINT COMMITTEE ON TRANSPORTATION
Meeting of November 12, 1990

The Interim Joint Committee on Transportation met on Monday, November 12, 1990, and submits this report:

The Committee determined that the following administrative regulations complied with KRS Chapter 13A:

601 KAR 9:074
601 KAR 9:140
603 KAR 5:105

The Committee adjourned at 2:30 a.m.

INTERIM JOINT COMMITTEE ON STATE GOVERNMENT
Meeting of November 14, 1990

The Interim Joint Committee on State Government met November 14, 1990, and submits this report.

The Committee determined that the following administrative regulation complies with KRS Chapter 13A:
101 KAR 1:325 - Probationary periods (Personnel Board)

INTERIM JOINT COMMITTEE ON BANKING & INSURANCE
Meeting of November 15, 1990

The Interim Joint Committee on Banking and Insurance met on November 15, 1990, and submits this report:

The Committee raised no objections to the following regulations:

806 KAR 12:092 & E
806 KAR 12:094 & E

Also, the Committee will not meet on 808 KAR 1:050 and 808 KAR 3:020 which were referred by the Administrative Regulation Review Committee at its November meeting.

INTERIM JOINT COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES
Meeting of November 14-15, 1990

The Interim Joint Committee on Agriculture and Natural Resources met November 14-15, 1990, and submits this report:

The committee determined that the following administrative regulations comply with KRS Chapter 13A:

Department of Agriculture:
302 KAR 15:010
302 KAR 38:010

Department for Fish and Wildlife Resources:
301 KAR 2:044 & E
301 KAR 2:140
301 KAR 2:185

Division of Water:
401 KAR 6:320 & E
401 KAR 8:010 & E
401 KAR 8:020 & E
401 KAR 8:030 & E
401 KAR 8:040 & E
401 KAR 8:050 & E
401 KAR 8:060 & E
401 KAR 8:070 & E
401 KAR 8:150 & E
401 KAR 8:200 & E
401 KAR 8:250 & E
401 KAR 8:300 & E
401 KAR 8:350 & E
401 KAR 8:400 & E
401 KAR 8:420 & E
401 KAR 8:440 & E
401 KAR 8:500 & E
401 KAR 8:550 & E
401 KAR 8:600 & E
401 KAR 8:650 & E
401 KAR 8:700 & E

401 KAR 8:100 & E, with the following amendment submitted by the cabinet, Section 1, subsection (5), paragraph (a), after the last sentence, add:
"This requirement may be waived by the Cabinet if the purchaser shows that a reasonable attempt to obtain the letter has been made and the seller of water fails to provide the required letter. In no event will this provision be the sole justification for rejection of the proposed project. The intent is to alert the seller and the purchaser that they are approaching their water purchase contract limitations and the state standards on minimum water pressure."

Division of Waste Management

401 KAR 32:030
401 KAR 34:120
401 KAR 34:250
401 KAR 35:120
401 KAR 38:230

401 KAR 38:040, with the following amendment submitted by the cabinet, Section 2, subsection (4) is amended to read as follows:
"The provisions set forth in Section 3 of this regulation as amended on March 10, 1988, shall apply to requests for modification received by the cabinet prior to November 14, 1990, and including all additional information and documentation submitted subsequent to November 14, 1990, as requested by the cabinet."

Division for Air Quality:
401 KAR 50:010
401 KAR 51:010
401 KAR 59:021
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The committee adjourned at 11:55 a.m., November 15, 1990.

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