Administrative Register of Kentucky

LEGISLATIVE RESEARCH COMMISSION
FRANKFORT, KENTUCKY

VOLUME 17, NUMBER 11
WEDNESDAY, MAY 1, 1991

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MEETING NOTICE: The next meeting of the Administrative Regulation Review Subcommittee is **tentatively** scheduled on May 6-7, 1991. See **tentative** agenda on pages 3083-3084 in this Administrative Register.

The **ADMINISTRATIVE REGISTER OF KENTUCKY** is the monthly supplement for the 1990 Edition of **KENTUCKY ADMINISTRATIVE REGULATIONS SERVICE.**

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

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

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

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

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ADMINISTRATIVE REGULATION REVIEW 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 or repeal.)

STATEMENT OF EMERGENCY
200 KAR 17:030E

Pursuant to KRS 13A.190, the undersigned do hereby declare that the proposed administrative regulation 200 KAR 17:030E should be enacted on an emergency basis. The proposed administrative regulation provides for governing the application for and the provision of financial assistance to governmental agencies for the construction of drinking water projects from the Drinking Water Loan Fund and must be effective and implemented immediately, in order to allow for the efficient administration of the Drinking Water Loan Fund. This emergency regulation shall be replaced by an ordinary administrative regulation. The ordinary regulation was filed with the Administrative Regulations Compiler on April 15, 1991.

WALLACE G. WILKINSON, Governor
L. ROGERS WELLS, JR., Chairman

FINANCE AND ADMINISTRATION CABINET
Kentucky Infrastructure Authority

200 KAR 17:030E. Guidelines for drinking water loan fund.

RELATES TO: KRS Chapter 224
STATUTORY AUTHORITY: KRS Chapter 13A, 224A.070(1), 224A.113
EFFECTIVE: April 15, 1991
NECESSITY AND FUNCTION: KRS 224A.070(1) and 224A.113 authorize the Kentucky Infrastructure Authority to promulgate regulations in accordance with KRS Chapter 13A, to govern the application for and provision of financial assistance to governmental agencies for the construction or acquisition of drinking water projects from the drinking water loan fund.

Section 1. Definitions. For the purposes of this regulation the words and terms used shall have the same meaning as in KRS 224A.011, with the following additions:
(1) "Applicant" shall mean any governmental agency that has submitted an application to the authority for a loan from the drinking water loan fund.
(2) "Application" shall mean the application submitted by an applicant for a loan from the drinking water loan fund.
(3) "State clearinghouse review" shall mean a review conducted within the Department of Local Government pursuant to federal or state law or regulations.
(4) "Authority staff" shall mean the Office of Financial Management and Economic Analysis.
(5) "Conditional commitment letter" shall mean a letter delivered to the applicant issuing the authority's commitment to provide a loan under specific terms and subject to the satisfaction of certain conditions by the applicant on or before the closing date.
(6) "Drinking water project" shall mean the acquisition, rehabilitation or construction of water treatment works, water distribution facilities, or water resources projects instituted by a governmental agency which is approved by the authority or, if required, by the Natural Resources and Environmental Protection Cabinet, Public Service Commission or other agency; or any other public water utility or public water service project.
(7) "Department" shall mean the Department of Local Government.
(8) "Closing date" shall mean the date established by the authority for execution of the assistance agreement upon satisfaction of the conditions contained in the conditional commitment letter.
(9) "Drinking water loan fund" shall mean the drinking water loan fund established pursuant to KRS Chapter 224A.
(10) "Capital investment plan" shall mean the plan developed by the applicant for investment in capital projects as required by KRS 224A.112(6)(b).
(11) "Index rate" shall mean the average of the Bond Buyer's Index of twenty (20) G.O. Bonds as published weekly in the Bond Buyer (a financial newspaper published in New York) calculated based on the weeks falling within each calendar quarter. This average shall be rounded the nearest one-tenth (.1) of one (1) percent.
(12) "Special depreciation fund" shall mean the special depreciation fund required to be established by an applicant by Section 6 of this regulation in connection with a loan from the drinking water loan program.

Section 2. General Eligibility Requirements and Conditions to Financial Assistance. (1) Applications shall only be submitted by applicants for drinking water projects located in the Big Sandy, Cumberland Valley, Kentucky River, or Gateway Area Development Districts.
(2) Only applicants that certify in writing that they are unable to finance an entire drinking water project from their own resources shall be eligible for a loan. Documentation evidencing such inability shall include the following:
(a) Letters from local lending institutions.
(b) Letters from financial advisors, accountants or fiscal agents, if applicable.
(c) If the applicant is in an area which qualifies for assistance through the Farmer's Home Administration, (FmHA), a statement stating either:
1. The applicant will not qualify for funding;
2. The applicant has previously applied for FmHA funding and has failed to receive assistance in two (2) consecutive attempts; or
3. The applicant needs to supplement the FmHA funds with drinking water loan funds.

(d) Statements from any other sources or other certifications having a bearing on the application which the authority in its discretion deems relevant for purposes of making the determination that an applicant is unable to finance the entire drinking water project from its own resources.

(3) Each applicant shall have or shall attain the legal authority necessary for constructing, operating and maintaining the proposed drinking water project.

Section 3. Eligible Drinking Water Projects. Monies in the drinking water loan fund shall be used for drinking water projects which will enhance the health, safety and welfare, and encourage economic development opportunities in local communities as determined by the authority based upon each application.

Section 4. Submission Requirements and Review Process. (1) The original and two (2) copies of each application shall be submitted to: Department of Local Government, Capital Plaza Tower, 2nd Floor, Frankfort, Kentucky 40601, Attention: Director, Division of Community Programs.

(2) The application form, substantially in the form as in effect on April 15, 1991, which is incorporated by reference and is made a part hereof as if fully set forth herein, may be obtained at the Department of Local Government from 8 a.m. to 4:30 p.m., Monday through Friday. Only a completed application, including all supporting documentation, shall be submitted before an application will be considered for assistance from the drinking water loan fund.

(3) Applications shall be subject to Kentucky state clearinghouse review, and shall be reviewed by the Department of Local Government, and shall be subject to authority credit review. Extensions of any review periods that are established may be necessary if the applicable reviewing agency determines that additional time is required for a more thorough review, or if any such agency determines that additional information or clarification is required to complete review of the application. Applicants may supplement their applications during the review process to:

(a) Clarify or explain the drinking water project scope;

(b) To provide additional information or clarification concerning the funds pledged as repayment of the loan; or

(c) To make adjustments in the application to enhance the programmatic or financial feasibility of the drinking water project.

Section 5. Criteria for Selecting Eligible Drinking Water Projects. (1) The Department of Local Government shall select and determine eligible drinking water projects for loans. The department shall take into consideration the following:

(a) Unemployment data, which shall be specific to the county or counties from which the application originates and shall reflect the most recent figures available from each county.

(b) The extent to which the drinking water project fits into the economic development strategy of the community. A drinking water project which relates to economic development is one that stimulates the potential for economic growth. A drinking water project shall be considered based on the degree to which it enhances economic development efforts and its level of priority in the community's capital investment plan.

(c) The extent of the need for the drinking water project and the impact which the drinking water project will have on the local economic development efforts.

(d) Whether the proposed costs of completing the drinking water project are reasonable given the geographic location of the drinking water project, current pricing trends, required professional services, and any other factors that may have a bearing on the drinking water project. Cost figures submitted in the application will be reviewed to determine whether the proposed budget is sound. Any costs considered questionable will be analyzed to determine whether the integrity of the drinking water project is suspect.

(e) Whether, based upon the department's evaluation of the overall drinking water project effectiveness, the most beneficial drinking water project has been designed for the use of the drinking water loan fund.

(2) The department shall review applications and assign a priority ranking based on the selection criteria. Drinking water projects shall be ranked as Priority I, Priority II, or Priority III.

(a) A Priority I ranking shall be assigned when, having considered all of the criteria, the drinking water project will have a significant economic impact on the community; is well designed; cost effective; and, generally, determined by the department to be the most suitable solution to the community's needs.

(b) Priority II shall be assigned when one (1) or more factors exist which would limit the success or feasibility of the drinking water project.

(c) Priority III shall be assigned when, having considered all the criteria, the department finds that the drinking water project is premature, is not feasible, or is inappropriate for assistance from the drinking water loan fund.

(d) The department shall recommend Priority I rankings to the authority's staff for financial review.

(3) Authority staff shall conduct a financial review of the Priority I designated drinking water project applications.

(a) The financial review shall include an analysis of:

1. The adequacy and quality of the revenues pledged for the repayment of the loan;

2. The validity of the assumptions used to project new revenues resulting from the drinking water project;

3. Whether monies other than the drinking water loan have been committed and shall be available to fund the cost of the drinking water project;

4. The ability of the applicant to provide for maintenance and operations cost of the drinking water project and related public service system;

5. The ability of the applicant to service existing debt of the system related to the drinking water project;

6. The nature of any funds pledged or committed by entities, other than the applicant, to repay the drinking water loan; and

7. The ability of the authority to finance the applicant's drinking water project using the

financing programs permitted by Kentucky and federal laws or regulations.

(b) At any time during the financial analysis, an application may be notified of a deficiency. If the problem cannot be resolved through negotiation, the authority may remove the application from consideration.

Section 6. Loan Process. (1) Upon completion of the credit review by the authority's staff, the application shall be submitted to the authority for final action.

(2) If the authority approves the application, a conditional commitment letter shall be issued to the applicant. This letter shall set forth the conditions and documentation required by the authority prior to execution of an assistance agreement. No funds shall be provided until the assistance agreement is fully executed. The commitment shall be made upon the authority's satisfaction that the drinking water project proposed is financially feasible, the applicant is credit worthy and that the drinking water project will comply with all technical and program requirements set forth in state and federal laws and regulations.

(3) The authority shall establish the interest rate quarterly based on prevailing market conditions. The rate of interest on each loan shall be set forth in the conditional commitment letter. There shall be one (1) rate of interest offered which will be the index rate less four (4) percent. If the nature of a drinking water project financed by the authority's loan causes interest on any authority bonds issued to fund the drinking water project to become taxable, the authority may consider adjustments in the interest rate to reflect the additional costs of authority funds.

(4) Loan repayments shall not exceed thirty (30) years. Loan repayments shall commence within six (6) months after the start of construction, unless repayment is dependent on revenues generated from the specific drinking water project. In such cases, loan repayment shall begin within six (6) months after the drinking water project is operational, and interest to cover the authority's cost of money during the construction period may be added to the amount of the loan.

(5) The principal amount of each loan shall be equal to the amount approved by the authority. The final loan amount may be adjusted by up to ten (10) percent of the commitment without further action by the authority, subject to availability of funds to service the debt.

(6) Upon certification by the drinking water project engineer of construction of the drinking water project as eighty (80) percent complete, and submission by the applicant of evidence of the exact cost of the drinking water project, an inspection shall be conducted by the authority staff to provide for any adjustments in the loan amount.

(7) To assure adequate funds for major maintenance and replacement of the drinking water projects funded by this program, the applicant shall be required to set aside annually, to a special depreciation fund, from current revenues, after taking into account costs of operations and maintenance and debt service requirements, an amount to be determined by the authority. Monies may be withdrawn from the account when major maintenance or replacements of equipment in excess of budgeted amounts are required.

(8) The assistance agreement between the authority and applicant shall contain such terms and conditions as the authority deems necessary to maintain the integrity of the drinking water loan fund according to the circumstances of each drinking water project.

Section 7. Applicant's Management Capacity. The department and the authority's staff shall require as a condition of any loan that the applicant perform any or all of the following:

(1) Document compliance with statutory mandates for financial accountability and personnel management.

(2) Demonstrate the ability to operate, as well as maintain, the drinking water project in a proper manner through the final maturity date of the loan.

(3) Document compliance with any other state or federal laws or regulations.

Section 8. Loan Closing and Extensions. An applicant shall meet all conditions of the conditional commitment letter and take bids for the drinking water project within not more than eleven (11) calendar months after the date of the conditional commitment letter, otherwise, the loan commitment shall expire. (For example, if an application was approved on January 1, 1992, bids for the project must be accepted and the assistance agreement signed by November 30, 1992.) One (1) extension period of up to six (6) months may be granted upon request of the applicant, if the authority determines that circumstances warrant the granting of the extension. If the extension is denied, the loan offer shall be rescinded. If a request for a time extension is granted, but all the conditions still cannot be met during the extension period, the loan commitment shall be rescinded. The applicant may reapply for any drinking water project for which the loan commitment has expired or been rescinded under this section.

Section 9. Authority to Administer the Program. The authority shall monitor the assistance agreements and require that financial reports be made available to the authority by the applicant at such intervals as shall be deemed necessary by the authority. The authority shall monitor the economic impact on the community, the cash flows of the project, and perform all actions that shall be required to assure that the agreements continuously meet the program standards established by this regulation. There shall be an annual administrative fee of two-tenths (.2) of one (1) percent charged on the unpaid balance of all loans. This fee shall be applied to the servicing costs of the loans and necessary operating expenses of the program.

L. ROGERS WELLS, JR., Secretary
APPROVED BY AGENCY: April 15, 1991
FILED WITH LRC: April 15, 1991 at noon

STATEMENT OF EMERGENCY
200 KAR 17:040E

Pursuant to KRS 13A.190, the undersigned do hereby declare that the proposed administrative regulation 200 KAR 17:040E should be enacted on

an emergency basis. The proposed administrative regulation provides for governing the application for and the provision of financial assistance to governmental agencies for the construction of drinking water projects from the Drinking Water Grant Fund and must be effective and implemented immediately, in order to allow for the efficient administration of the Drinking Water Grant Fund. This emergency regulation shall be replaced by an ordinary administrative regulation. The ordinary regulation was filed with the Administrative Regulations Compiler on April 15, 1991.

WALLACE G. WILKINSON, Governor
L. ROGERS WELLS, JR., Chairman

FINANCE AND ADMINISTRATION CABINET
Kentucky Infrastructure Authority

200 KAR 17:040E. Guidelines for drinking water grant fund.

RELATES TO: KRS Chapter 224A
STATUTORY AUTHORITY: KRS Chapter 13A, 224A.070(1), 224A.113
EFFECTIVE: April 15, 1991
NECESSITY AND FUNCTION: KRS 224A.070(1) and 224A.113, authorize the Kentucky Infrastructure Authority to promulgate regulations in accordance with KRS Chapter 13A, to govern the application for and provision of financial assistance to governmental agencies for the construction of drinking water projects from the drinking water grant fund.

Section 1. Definitions. For the purposes of this regulation the words and terms used shall have the same meaning as in KRS 224A.011, with the following additions:
(1) "Applicant" shall mean any governmental agency that has submitted an application to the authority for a grant from the drinking water grant fund.
(2) "Application" shall mean the application submitted by an applicant for a grant from the drinking water grant fund.
(3) "State clearinghouse review" shall mean a review conducted within the Department of Local Government pursuant to federal or state law or regulations.
(4) "Authority staff" shall mean the Office of Financial Management and Economic Analysis.
(5) "Financial hardship" shall mean the inability of an area to support debt due to socio-economic factors limiting the ability of the applicant to generate revenue.
(6) "Extreme health hazard" shall mean such documented existing conditions pertaining to the quality or absence of drinking water which significantly contribute to an increase in illness or which otherwise endanger human health or safety within the proposed project's service area.
(7) "Conditional commitment letter" shall mean a letter delivered to the applicant issuing the authority's commitment to provide a grant under specific terms and subject to the satisfaction of certain conditions by the applicant on or before the closing date.
(8) "Department" shall mean the Department of Local Government.
(9) "Closing date" shall mean the date established by the authority for execution of the assistance agreement upon satisfaction of the conditions contained in the conditional commitment letter.
(10) "Drinking water grant fund" shall mean the drinking water grant fund established pursuant to KRS Chapter 224A.
(11) "Drinking water project" shall mean the acquisition, rehabilitation or construction of water treatment works, water distribution facilities, or water resources projects instituted by a governmental agency which is approved by the authority or, if required, by the Natural Resources and Environmental Protection Cabinet, Public Service Commission or other agency; or any other public water utility or public water service project.
(12) "Capital investment plan" shall mean the plan developed by the applicant for investment in capital projects as required by KRS 224A.112(6)(b).

Section 2. General Eligibility Requirements and Conditions to Financial Assistance. (1) Applications for drinking water projects shall be submitted only by applicants.
(2) Only applicants that certify in writing that they are unable to finance the entire drinking water project from their own resources shall be eligible for a grant. Documentation evidencing such inability shall include the following:
(a) Letters from local lending institutions.
(b) Letters from financial advisors, accountants or fiscal agents, if applicable.
(c) If the applicant is in an area which qualifies for assistance through the Farmer's Home Administration, ("FmHA"), a statement stating either:
1. The applicant will not qualify for funding;
2. The applicant has previously applied for FmHA funding and has failed to receive assistance in two (2) consecutive attempts; or
3. The applicant needs to supplement the FmHA funds with drinking water grant funds.
(d) Statements from any other sources or other certifications having a bearing on the application, which the authority in its discretion deems relevant for purposes of making the determination that an applicant is unable to finance the entire drinking water project from its own resources.
(3) Each applicant shall have or shall attain the legal authority necessary for constructing, operating and maintaining the proposed drinking water project.

Section 3. Eligible Drinking Water Projects. Monies in the drinking water grant fund shall be used for drinking water projects designed to encourage development opportunities within or among local communities and address serious drinking water needs.

Section 4. Submission Requirements and Review Process. (1) The original and two (2) copies of each application shall be submitted to: Department of Local Government, Capital Plaza Tower, 2nd Floor, Frankfort, Kentucky 40601; Attention: Director, Division of Community Programs.
(2) Application forms may be obtained from the Department of Local Government, and a complete application including all supporting documentation shall be submitted before an application will be considered for assistance from the drinking water grant fund.

Section 5. Criteria for Selecting Eligible Drinking Water Projects. (1) The Department of Local Government shall select and determine eligible drinking water projects for grants. The department shall take into consideration the following:

(a) Unemployment data, which shall be specific to the county or counties from which the application originates and shall reflect the most recent figures available from each county.

(b) The degree to which a drinking water project enhances development efforts in the community and its level of priority in the community's capital investment plan.

(c) The extent of the need for the drinking water project. Primary factors to be considered are both financial hardship and extreme health hazard as well as the extent of drinking water deficiencies on the community.

(d) Whether proposed costs of completing the drinking water project are reasonable given the geographic location of the drinking water project, current pricing trends, required professional services, and any other factors that may have a bearing on the drinking water project. The cost figures presented with the application will be reviewed to ensure the budget is sound. Any costs considered questionable will be analyzed to determine whether the integrity of the drinking water project is suspect.

(e) Whether the most beneficial drinking water project has been designed for the use of drinking water grant funds. Factors that shall be considered include the amount of funds requested, drinking water project need, development impact, local effort in terms of monetary participation and management, and program design. These factors will be used to determine the significance and impact of program accomplishments once the drinking water project is complete.

(2) The department shall review applications and assign a priority ranking based on the selection criteria. Drinking water projects shall be ranked as Priority I, Priority II, or Priority III.

(a) A Priority I ranking shall be assigned when, having considered all of the criteria, the drinking water project addresses a significant need, is well designed, cost effective, and, generally, is determined by the department to be the most suitable solution to the community's needs.

(b) Priority II shall be assigned when one (1) or more factors exist which would limit the success or feasibility of the project.

(c) Priority III shall be assigned when, having considered all the criteria, the department finds that the drinking water project is premature, is not feasible, or is inappropriate for assistance from the drinking water grant fund.

(d) The department shall recommend Priority I rankings to the authority for approval.

(3) Authority staff shall conduct a financial review of the Priority I designated drinking water project applications.

(a) The financial review shall include an analysis of:

1. The validity of the assumptions used to project new revenues resulting from the drinking water project;

2. Whether monies other than the drinking water grant have been committed and shall be available to fund the cost of the drinking water project;

3. Ability of the applicant to provide for maintenance and operations cost of the drinking water project and related public service system;

4. Ability of the applicant to service existing debt of the system related to the project;

5. Ability of the authority to finance the applicant's drinking water project using the financing programs permitted by Kentucky and federal laws or regulations.

(b) At any time during the financial analysis, an applicant may be notified of a deficiency. If the problem cannot be resolved through negotiation, the authority may remove the application from consideration.

Section 6. Grant Process. (1) Upon completion of the credit review by the authority's staff, the application shall be submitted to the authority for final action.

(2) If the authority approves the application, a conditional commitment letter shall be issued to the applicant. This letter shall set forth the conditions and documentation required by the authority prior to execution of an assistance agreement. No funds shall be provided until the assistance agreement is fully executed. The commitment shall be made upon the authority's satisfaction that the drinking water project proposed is financially feasible, the applicant is credit worthy and the project shall comply with all technical and program requirements set forth in state and federal laws and regulations.

Section 7. Applicant's Management Capacity. The department and the authority's staff shall require as a condition of any grant that the applicant perform any or all of the following:

(1) Document compliance with statutory mandates for financial accountability and personnel management.

(2) Demonstrate the ability to operate, as well as maintain, the project in a proper manner over the life of the drinking water project.

(3) Document compliance with any other state or federal laws or regulations.

Section 8. Grant Execution and Extensions. An applicant shall meet all conditions of the conditional commitment grant letter and take bids for the drinking water project within not more than eleven (11) calendar months after the date of the conditional commitment letter, otherwise, the grant commitment shall expire. One (1) extension period of up to six (6) months may be granted upon request of the applicant, if the authority determines that circumstances warrant the granting of the extension. If the extension is denied, the grant offer shall be rescinded. If a request for a time extension is granted, but all the conditions still cannot be met during the extension period, the grant commitment will be rescinded. The applicant shall reapply for a grant for any project from which the grant commitment has expired or been rescinded under this section.

Section 9. Authority to Administer the Program. The authority shall monitor the assistance agreements and require that periodic reports be made available to the authority by the governmental agency at such intervals as shall be deemed necessary by the authority. The

authority shall perform all actions that shall be required to assure that the agreements continuously meet the program standards established by this regulation.

L. ROGERS WELLS, JR., Secretary
APPROVED BY AGENCY: April 15, 1991
FILED WITH LRC: April 15, 1991 at noon

STATEMENT OF EMERGENCY
200 KAR 17:050E

Pursuant to KRS 13A.190, the undersigned do hereby declare that the proposed administrative regulation 200 KAR 17:050E should be enacted on an emergency basis. The proposed administrative regulation provides for governing the application for and the provision of financial assistance to governmental agencies for the construction of infrastructure projects from the federally assisted wastewater revolving fund and must be effective and implemented immediately, in order to allow for the efficient administration of the federally assisted wastewwater revolving fund. This emergency regulation shall be replaced by an ordinary administrative regulation. The ordinary regulation was filed with the Administrative Regulations Compiler on April 15, 1991.

WALLACE G. WILKINSON, Governor
L. ROGERS WELLS, JR., Chairman

FINANCE AND ADMINISTRATION CABINET
Kentucky Infrastructure Authority

200 KAR 17:050E. Guidelines for federally assisted wastewater revolving fund.

RELATES TO: KRS Chapter 224A
STATUTORY AUTHORITY: KRS Chapter 13A, 224A.070(1), 224A.113
EFFECTIVE: April 15, 1991
NECESSITY AND FUNCTION: KRS 224A.070(1) and 224A.113 authorize the Kentucky Infrastructure Authority to promulgate regulations in accordance with KRS Chapter 13A, to govern the application for and provision of financial assistance to governmental agencies for the construction of infrastructure projects from the federally assisted wastewater revolving fund.

Section 1. Definitions. For the purposes of this regulation the words and terms used shall have the same meaning as in KRS 224A.011, with the following additions:

(1) "Applicant" shall mean any governmental agency that has submitted an application to the authority and the cabinet for a loan from the federally assisted wastewater revolving fund.

(2) "Application" shall mean an application submitted by an applicant for a loan from the federally assisted wastewater revolving fund.

(3) "Authority staff" shall mean the Office of Financial Management and Economic Analysis.

(4) "Cabinet" shall mean the Natural Resources and Environmental Protection Cabinet.

(5) "Closing date" shall mean the date established by the authority for execution of the assistance agreement upon satisfaction of the conditions contained in the conditional commitment letter.

(6) "Conditional commitment letter" shall mean a letter delivered to the applicant stating the authority's commitment to provide a loan under specifications and subject to the satisfaction of certain conditions by the applicant on or before the closing date.

(7) "Index rate" shall mean the average of the Bond Buyer's Index of twenty (20) G.O. Bonds as published weekly in the Bond Buyer (a financial newspaper published in New York) calculated based on the weeks falling within each calendar quarter. This average shall be rounded to the nearest one-tenth (.1) of one (1) percent.

(8) "Requisition for funds" shall mean the form identified in and attached to the assistance agreement to be used by the governmental agency for obtaining disbursements of the loan from the authority as construction of the wastewater project progresses.

(9) "State clearinghouse review" shall mean a review conducted by the Department of Local Government which has been designated as the single point of contact pursuant to federal and state laws or regulations.

(10) "Special depreciation fund" shall mean the special depreciation fund required to be established by an applicant by Section 7 of this regulation in connection with a loan from the federally assisted wastewater revolving fund.

(11) "Wastewater project" shall mean a wastewater project described in Section 3 of this regulation.

(12) "Construction project priority list" shall mean the list developed annually by the cabinet containing all eligible wastewater projects in priority order.

Section 2. Eligible Applicants. Any applicant, as defined in KRS 224A.011, shall be eligible to apply for financial assistance for planning, design and construction of eligible wastewater projects set forth in Section 3 of this regulation.

Section 3. Eligible Wastewater Projects. (1) Funds in the federally assisted wastewater revolving fund shall be used for planning, design and construction of wastewater collection, conveyance, and treatment facilities and for the implementation of nonpoint source pollution control management programs. Wastewater projects may include: wastewater treatment facilities, interceptor sewers and pump stations, collector sewers, inflow/infiltration corrections, sewer rehabilitation and combined sewer overflow.

(2) Only projects identified on the state's construction project priority list shall be considered for funding.

Section 4. Submission Requirements and Review Process. (1) The original and one (1) copy of each application shall be submitted to the address listed below or if different, to the address listed on the application: Kentucky Division of Water, Facilities Construction Branch, Frankfort Office Park, 18 Reilly Road, Frankfort, Kentucky 40601, Attention: Branch Manager, and one (1) copy of each application shall be simultaneously submitted to: Kentucky Infrastructure Authority, Room 075, Capitol Annex Building, Frankfort, Kentucky 40601, Attention: Executive Director.

(2) The application form, substantially in the form as in effect on April 15, 1991, which is incorporated by reference and is made a part hereof as if fully set forth herein, may be

obtained at the Division of Water from 8 a.m. to 4:30 p.m., Monday through Friday. Only a completed application,including all supporting documentation, shall be considered for assistance from the federally assisted wastewater revolving fund.

(3) Financial information contained in the application shall be consistent with the estimates contained in the cost effective alternative selected in the facilities' planning process. Prior to issuance of a binding commitment by the authority, the application and facilities planning document shall be routed through state clearinghouse review.

Section 5. Criteria for Selecting Eligible Projects. (1) The cabinet shall select and determine eligible projects for loans and recommend such projects to the authority for consideration. The cabinet shall take into consideration the following:

(a) Whether the cost of completing the wastewater project is reasonable given the geographic location of the project, current pricing trends, required professional services, and any other factors that may have a bearing on the wastewater project. Cost figures submitted in the application shall be reviewed to determine whether the proposed budget for the wastewater project is feasible.

(b) Whether the most beneficial and effective project has been planned for the use of the federally assisted wastewater revolving fund.

(c) Wastewater projects funded, which have met all the requirements stated in this regulation, shall have priority for funding as indicated herein. Priority points shall be given each applicant based upon factors which consider:

1. The ratio of proposed wastewater treatment cost to wastewater transportation costs;
2. The impact the project has on any existing drinking water supply;
3. Outstanding resource waters in the area as defined by 401 KAR 5:029, Section 1(v);
4. The operational municipal performance ratings received by the applicant from the Division of Water;
5. Populations to be served that presently do not have sewer systems available;
6. The ratio of streamflow upstream to the existing or proposed discharge;
7. The ability to comply with the required discharge parameters for various pollutants for the applicant.

Section 6. Wastewater Project Requirements. (1) In addition to other requirements stated in this regulation, the following specific requirements shall be met:

(a) The wastewater project shall use the best practicable waste treatment technology.

(b) Alternative technologies shall have been considered in wastewater project planning.

(c) The related sewer collection system shall not be subject to excessive inflow/infiltration.

(d) Innovative and alternative treatment technologies shall have been studied in an effort to construct revenue producing facilities and to make more efficient use of energy and resources.

(e) Potential recreation and open space opportunities have been analyzed in the planning of the proposed facility.

(f) The project is included in the statewide plans developed under Sections 208 and 303(e) of the Federal Clean Water Act.

(g) The applicant has developed an adequate user charge system and the applicant has the legal, institutional, managerial and financial capability to construct, operate and maintain the wastewater project.

(h) The applicant shall agree, one (1) year after the date of completion of construction and initiation of operation, to certify to the cabinet that the facility meets design specifications and effluent limitations included in the discharge permit.

(i) The treatment system is cost effective and a value engineering review will be conducted for wastewater projects having construction costs over $2,000,000; provided that the foregoing engineering review shall not be required for collector sewers and minor sewer rehabilitation.

(j) The project has undergone appropriate reviews to ensure compliance with the National Environmental Policy Act.

(k) The applicant shall ensure that wages paid for the construction of the facilities shall conform to the prevailing wage rates established for the locality by the United States Department of Labor under the Federal Davis-Bacon Act or state wage rates, whichever rates are higher.

(l) The applicant shall ensure compliance with all applicable federal laws and regulations.

(m) Certification by the applicant that it has complied with the procurement requirements contained in KRS Chapter 45A.

(n) Construction contracts shall be awarded to the lowest responsive responsible bidder.

Section 7. Loan Process. (1) Upon completion of the credit review by the authority's staff, the application shall be submitted to the authority's board of directors for final action.

(2) If the authority approves the application, a conditional commitment letter shall be issued to the applicant. This letter shall set forth the conditions and documentation required by the authority prior to execution of an assistance agreement. No funds shall be provided until the assistance agreement is fully executed. The commitment shall be made upon the authority's satisfaction that the wastewater project proposed is financially feasible, the applicant is credit worthy and that the wastewater project will comply with all technical and program requirements set forth in state and federal laws and regulations.

(3) The authority shall establish interest rates quarterly based on prevailing market conditions. The rate of interest on each loan shall be set forth in the conditional commitment letter. There shall be two (2) rates of interest offered, the above median income interest rate and the below median income interest rate. The above median income interest rate shall be the index rate less three (3) percent. The above median interest rate shall apply to applicants whose jurisdiction lies within a county whose median family income level is above or equal to the statewide median household income level. The below median interest rate shall be the index rate less five (5) percent. The below median interest rate shall apply to applicants whose jurisdiction lies within a county whose median family income is below the statewide median family income. The most recent statistics on family income as published by the Urban Studies Center, University of Louisville, shall apply. If an applicant's jurisdiction lies within more

than (1) one county, the average of the median family income of all the counties covered by the applicant's jurisdiction shall determine the applicable interest rate. If the median family income level of an applicant's community differs significantly from that of the applicant's county, the authority may consider adjustments of the interest rate to the below median income rate. If the nature of a wastewater project financed by the authority's loan causes interest on any authority bonds issued to fund the wastewater project to become taxable, the authority may consider adjustments in the interest rate to reflect the additional costs of authority funds.

(4) Loan repayments shall not exceed twenty (20) years, and principal and interest shall be paid semiannually, unless the authority establishes a more frequent payment schedule due to credit concerns. The loan repayment period may be less than twenty (20) years upon election of the authority. Loan repayments shall commence within six (6) months after the start of construction, unless repayment is dependent on revenues generated from the specific infrastructure project. In such cases, loan repayments shall begin within six (6) months after the wastewater project is operational, and interest to cover the authority's cost of money during the construction period may be added to the amount of the loan.

(5) The principal amount of each loan shall be equal to the amount approved by the authority. The final loan amount may be adjusted by up to ten (10) percent of the amount stated in the conditional commitment letter without further action by the authority, subject to the availability of funds to service the debt.

(6) To ensure adequate funds for major maintenance and replacement of the wastewater projects funded by this program, the applicant shall be required to set aside annually to a special depreciation fund from current revenues, after taking into account costs of operations and maintenance and debt service requirements, an amount to be determined by the authority. Monies may be withdrawn from the account when major maintenance or replacement of equipment in excess of budgeted amounts are required.

(7) The assistance agreement between the authority and applicant shall contain such terms and conditions as the authority deems necessary to maintain the financial integrity of the federally assisted wastewater revolving fund according to the circumstances of each wastewater project.

Section 8. Applicant's Management Capacity. The cabinet and the authority's staff may require as a condition of any loan that the applicant perform any or all of the following:

(1) Document compliance with the statutory mandates for financial accountability and personnel management.

(2) Demonstrate the ability to operate, as well as maintain, the project in a proper manner through the final maturity date of the loan.

(3) Document compliance with any other state or federal requirements.

Section 9. Submission and Review of Requisition for Funds. (1) The original and one (1) copy of each requisition for funds with the required invoices attached shall be submitted to the authority and one (1) copy of each requisition for funds with the required invoices attached shall be submitted to the Kentucky Division of Water at the address set forth in Section 4 of this regulation.

(2) The cabinet shall review requisitions for funds for compliance with federal and state requirements as defined in the conditional commitment letter and assistance agreement before approving payment by the authority.

Section 10. Loan Closing and Extensions. An applicant shall meet all conditions for loan closing and take action to award contracts for the wastewater project within not more than eleven (11) calendar months after the date of the conditional commitment letter, otherwise, the loan commitment shall expire. One (1) extension period of up to six (6) months may be granted upon request of the applicant, if the authority determines that circumstances warrant the granting of the extension. If the extension is denied, the loan offer shall be rescinded. If a request for a time extension is granted, but all the conditions still cannot be met during the extension period, the loan commitment may be rescinded. The applicant shall reapply for a loan for any wastewater project for which the loan commitment has expired or has been rescinded under this section.

Section 11. Authority to Administer the Program. The authority shall monitor the assistance agreements and require that financial reports be made available to the authority by the governmental agency at such intervals as shall be deemed necessary by the authority. The authority shall monitor the cash flows of the wastewater project, and perform all actions that shall be required to assure that the agreements continuously meet the program standards established by this regulation. There shall be an annual administrative fee of two-tenths (.2) of one (1) percent charged on the unpaid balance of all loans. This fee shall be applied to the servicing costs of the loans and necessary operating expenses of the program.

L. ROGERS WELLS, JR., Secretary
APPROVED BY AGENCY: April 15, 1991
FILED WITH LRC: April 15, 1991 at noon

STATEMENT OF EMERGENCY
501 KAR 6:020E

In order to continue to operate the Corrections Cabinet in accordance with KRS Chapter 196, the Corrections Cabinet needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because the effected cabinet policies must be revised immediately to allow the Corrections Cabinet to implement procedures to conform with the 1990 session of the legislature which provided funding for the Corrections Cabinet to contract with county jails to house 600 additional inmates. The Corrections Cabinet has requested an expansion of only 300 beds as this represented the approximate number of inmates eligible for the program. Historically, the cabinet's eligibility requirement for jail placement has only allowed a limited number of minimum security inmates to be considered. Both county officials and legislators are urging that the cabinet proceed to fill the 600 beds as soon

as possible. Many counties, especially those with recently completed construction projects, are depending on the new revenue to offset their operating expenses. Therefore, the Corrections Cabinet must proceed as quickly as possible to expand the eligibility standards. After careful consideration, the cabinet has made revisions which will not compromise security but will significantly increase the pool of eligible inmates. It is important that the revisions to the cabinet policies be promulgated as an emergency regulation. This emergency regulation will be replaced by the ordinary administrative regulation filed with LRC on March 15, 1991 in accordance with KRS Chapter 13A.

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

CORRECTIONS CABINET

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

RELATES TO: KRS Chapters 196, 197, 439
STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640
EFFECTIVE: March 22, 1991
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 of 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 March 15, 1991 [December 14, 1990] and hereinafter should be referred to as Corrections Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601 or may be reviewed at the Office of General Counsel weekdays from 8 a.m. to 4:30 p.m.

1.1 Legal Assistance for Corrections Staff
1.2 News Media
1.4 The operation of Contracted Adult Correctional Facilities
1.6 Extraordinary Occurrence Reports
1.9 Institutional Duty Officer
1.11 Population Counts and Reporting Procedures
1.12 Operation of Motor Vehicles by Corrections Cabinet Employees
2.1 Inmate Canteen
2.2 Warden's Fund
2.10 Surplus Property
3.1 Code of Ethics
3.12 Institutional Staff Housing
4.2 Staff Training and Development
4.3 Firearms and Chemical Agents Training
6.1 Open Records Law
7.2 Asbestos Abatement
7.3 Hazardous Waste (Added 3/15/91)
8.4 Emergency Preparedness
9.1 Use of Force
9.4 Transportation of Inmates to Funerals or Bedside Visits
9.6 Contraband
9.7 Storage, Issue and Use of Weapons Including Chemical Agents
9.8 Search Policy
9.9 Transportation of Inmates
9.10 Security Inspections
9.11 Tool Control
9.18 Informants
9.19 Found Lost or Abandoned Property
10.2 Special Management Inmates
10.3 Safekeepers
10.4 Special Needs Inmates
11.2 Nutritional Adequacy of the Diet for Inmates
11.3 Special Diet Procedures
13.1 Pharmacy Policy and Formulary
13.2 Health Maintenance Services
13.3 Medical Alert System
13.4 Health Program Audits
13.5 Acquired Immune Deficiency Syndrome (Amended 3/15/91)
13.6 Sex Offender Treatment Program
14.2 Personal Hygiene Items
14.3 Marriage of Inmates
14.4 Legal Services Program
14.6 Inmate Grievance Procedures
15.1 Hair and Grooming Standards
15.2 Offenses and Penalties
15.3 Meritorious Good Time
15.5 Restoration of Forfeited Good Time
15.6 Adjustment Procedures and Programs
16.1 General Inmate Visiting Procedure
16.2 Inmate Correspondence
16.3 Telephone Calls
16.4 Inmate Packages
17.1 Inmate Personal Property
17.2 Assessment Center Operations
17.3 Controlled Intake of Inmates
18.4 Classification of the Inmate
18.5 Custody/Security Guidelines (Amended 3/15/91) [(Amended 12/14/90)]
18.6 Classification Document (Amended 3/15/91)
18.7 Transfers (Amended 3/15/91)
18.8 Guidelines for Transfers Between Institutions (Amended 3/15/91)
18.9 Out-of-state Transfers
18.10 Preparole Progress Reports
18.11 Kentucky Correctional Psychiatric Center Transfer Procedures
18.12 Referral Procedure for Inmates Adjudicated Guilty But Mentally Ill
18.13 Population Categories
18.15 Protective Custody
19.1 Government Services Projects
19.2 Community Services Projects
20.6 Vocational Study Release
22.1 Privilege Trips
25.1 Gratuities
25.2 Public Official Notification of Release of an Inmate
25.3 Prerelease Program
25.4 Inmate Furloughs
25.6 Community Center Program (Amended 3/15/91) [(Amended 12/14/90)]
25.7 Expedient Release
25.8 Extended Furloughs
25.10 Administrative Release of Inmates (Added 3/15/91)
27-01-01 Probation and Parole Procedures
27-02-01 Duties of Probation and Parole Officers
27-03-01 Workload Formula Supervisor/Staff Ratio
27-05-01 Testimony, Court Demeanor and Availability of Legal Services
27-06-01 Availability of Supervision Services

27-06-02 Equal Access to Services
27-07-01 Cooperation with Law Enforcement Agencies
27-08-01 Use of Force (Amended 3/15/91)
27-09-01 Kentucky Community Resources Directory
27-10-01 Advanced Supervision
27-11-01 Intensive Supervision
27-12-01 Supervision: Case Classification
27-12-02 Risk/Needs Assessment
27-12-03 Initial Interview
27-12-04 Conditions of Regular Supervision/Request for Modification
27-12-05 Releasee's Report
27-12-06 Grievance Procedures for Offenders
27-12-07 Employment, Education/Vocational Referral
27-12-08 Supervision Plan
27-12-09 Casebook
27-12-10 Guidelines for Monitoring Supervision Fee
27-12-11 Guidelines for Monitoring Financial Obligations Ordered by the Releasing Authority
27-12-12 Other Financial Obligations (Not Ordered by Releasing Authority)
27-12-13 Community Service Work
27-12-14 Client Travel Restrictions
27-13-02 Alcohol Detection
27-14-01 Interstate Compact Transfers
27-14-02 Interstate Compact Out-of-state Probation and Parole Violation
27-15-01 Supervision Report; Violations, Unusual Incidents
27-16-01 Search; Seizure; Chain of Custody; Disposal of Evidence
27-17-01 Absconder Procedures
27-18-01 Probation and Parole Issuance of Detainer/Warrant
27-19-01 Preliminary Revocation Hearing (Amended 3/15/91)
27-20-01 Division of Probation and Parole Controlled Intake Program [(Amended 12/14/90)]
27-20-02 Prisoner Intake Notification (Amended 3/15/91)
27-20-03 Prisoner Status Change
27-21-01 Apprehension and Transportation of Probation and Parole Violators
27-22-01 Fugitive Unit - Apprehensions
27-22-02 Fugitive Unit - Transportation of Fugitives
27-23-01 In-state Transfer
27-24-01 Closing Supervision Report
27-24-02 Reinstatement of Clients to Active Supervision
27-25-01 Application for Final Discharge from Parole
27-26-01 Assistance to Former Clients and Dischargees
27-27-01 Restoration of Civil Rights
27-28-01 Firearms/Explosives: Application for Relief from Disability
27-29-01 Parole Review Dates Modification
28-01-01 Probation and Parole Investigation Reports (Introduction, Definitions, Confidentiality, Timing, and General Comments)
28-01-02 Probation and Parole Investigation Reports (Administrative Responsibilities)
28-01-03 Probation and Parole Investigation Reports (Presentence/Postsentence Investigation Interview Procedure)
28-01-04 Probation and Parole Investigation Reports (Presentence/Postsentence Verification, Composition, Case Material and Submission Schedules)
28-01-05 Probation and Parole Investigation Reports (Computation of Jail Custody Credit)
28-01-06 Probation and Parole Investigation Reports (Misdemeanant Presentence Investigation Reports for the Circuit and District Courts)
28-01-07 Probation and Parole Investigation Reports (Supplemental Postsentence Investigation Report, Case Material, and Submission Schedule)
28-01-08 Probation Parole Investigation Reports (Partial Investigation Reports and Submission Schedule)
28-01-09 Release of Information of Factual Content on Presentence/Postsentence Investigation Reports (Amended 3/15/91)
28-02-01 Expedient Release Program
28-03-01 Parole Plans/Halfway Houses/Extended Furlough/Sponsorship/Gradual Release
28-04-01 Furlough Verifications
28-05-01 Out-of-state Investigations

JOHN T. WIGGINTON, Secretary
APPROVED BY AGENCY: March 15, 1991
FILED WITH LRC: March 22, 1991 at 3 p.m.

STATEMENT OF EMERGENCY
501 KAR 6:080E

In order to continue to operate the Corrections Cabinet in accordance with KRS Chapter 196, the Corrections Cabinet needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because the effected cabinet classification manual must be revised immediately to allow the Corrections Cabinet to implement procedures to conform with the 1990 session of the legislature which provided funding for the Corrections Cabinet to contract with county jails to house additional state inmates. The changes in this manual are necessary as they authorize the use of community custody. This custody level will be used to assist in filling the expansions in the Community Center Program. Also, this emergency regulation corresponds with the cabinet's emergency regulation 501 KAR 6:020E. This emergency regulation will be replaced by the ordinary administrative regulation filed with LRC on March 15, 1991 in accordance with KRS Chapter 13A.

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

CORRECTIONS CABINET

501 KAR 6:080E. Corrections Cabinet Manuals.

RELATES TO: KRS Chapters 196, 197, 439
STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640
EFFECTIVE: March 22, 1991
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 March 15, 1991 [July 13, 1990] and hereinafter should be referred to as Corrections Cabinet Manuals. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601 or may be reviewed at the Office of General Counsel weekdays from 8 a.m. to 4:30 p.m.

Offender Records Manual - None.
Stock Procedure Manual - None.
Food Services Manual - None.
Classification Manual - Yes.

JOHN T. WIGGINTON, Secretary
APPROVED BY AGENCY: March 15, 1991
FILED WITH LRC: March 22, 1991 at 3 p.m.

STATEMENT OF EMERGENCY
902 KAR 55:020E

Emergency regulation 902 KAR 55:020E is necessary in order to provide conformity with federal regulation 21 CFR 1308.12. In order to continue enforcement of abusable controlled substances as scheduled by federal regulations the Cabinet for Human Resources is required to implement this regulation. An ordinary regulation will not suffice due to the effective date required by the U.S. Drug Enforcement Administration. This emergency administrative regulation shall be replaced by an ordinary administrative regulation which will be filed with the Regulations Compiler on or before May 15, 1991.

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

CABINET FOR HUMAN RESOURCES
Department for Human Resources
Division of Community Safety

902 KAR 55:020E. Schedule II substances.

RELATES TO: KRS Chapter 218A
STATUTORY AUTHORITY: KRS 194.050, 211.090, 218A.020, 218A.060, 218A.250
EFFECTIVE: April 12, 1991
NECESSITY AND FUNCTION: KRS 218A.020 authorizes the Cabinet for Human Resources to add substances to or delete or reschedule substances enumerated in KRS Chapter 218A. After considering the criteria set forth in KRS 218A.020 and 218A.060 and applicable federal regulations, the Cabinet for Human Resources designates the substances set forth in this regulation as Schedule II controlled substances.

Section 1. Depressants. The Cabinet for Human Resources hereby designates as Schedule II controlled substances in addition to those specified by KRS 218A.070 and unless specifically excepted or listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:
(1) Amobarbital;
(2) Glutethimide;
(3) Pentobarbital;
(4) Secobarbital. [Reschedule of Certain Barbituric Acid Derivatives to "Schedule II" Controlled Substances; Exceptions. The Cabinet for Human Resources hereby reschedules the following barbituric acid derivatives from Schedule III to Schedule II controlled substances, viz:]
[(1) Amobarbital;]
[(2) Secobarbital;]
[(3) Pentobarbital;]
[(4) Provided; however, that any material, compound, mixture, or preparation containing amobarbital, secobarbital and pentobarbital or any salt thereof and one (1) or more other active medicinal ingredient(s) which is not a controlled substance shall be in "Schedule III."]
(5) Provided; however [further], that any suppository dosage form containing amobarbital, secobarbital and pentobarbital or any salt thereof which has been approved by the United States Food and Drug Administration for marketing only as a suppository shall be in "Schedule III."

Section 2. Immediate Precursors. The Cabinet for Human Resources hereby designates as Schedule II controlled substances, in addition to those specified by KRS 218A.070 and unless specifically excepted or listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:
(1) [1-Piperidinocyclohexanecarbonitrile and] 1-Phenylcyclohexylamine, immediate precursor to Phencyclidine;
(2) Phenylacetone[.] (some trade or other names include: phenyl-2-propanone, P2P, benzyl methyl ketone, and methyl benzyl ketone, immediate precursors to amphetamine and methamphetamine);
(3) 1-Piperidinocyclohexanecarbonitrile, immediate precursor to Phencyclidine.

Section 3. Hallucinogenic Substances. The Cabinet for Human Resources hereby designates as Schedule II controlled substances, in addition to those specified by KRS 218A.070 and unless specifically excepted or listed in another schedule, and material, compound, mixture, or preparation which contains any quantity of the following substances:
(1) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. Food and Drug Administration approved drug product. (Some other names for dronabinol: (6aR-trans)-6a, 7, 8, 10a- tetrahydro-6, 6, 9-trimethyl-3-pentyl-6H-dibenzo [b, d] pyran-1-ol or (-) delta-9-(trans)-tetrahydrocannabinol.)
(2) Nabilone. (Another name for nabilone: (plus or minus) - trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo[b,d]pyran-9-one).

Section 4. Opium and Derivatives. The Cabinet for Human Resources hereby designates as Schedule II controlled substances, in addition to those specified by KRS 218A.070, any of the following opium and opiates, and any salt, compound, derivative, or preparation of opium or

opiate, excluding apomorphine, dextrorphan, nalbuphine, nalmefene, naloxone, and naltrexone, and their respective salts, but including the following:
(1) Raw opium;
(2) Opium extracts;
(3) Opium fluid;
(4) Powdered opium;
(5) Granulated opium;
(6) Tincture of opium;
(7) Codeine;
(8) Ethylmorphine;
(9) Etorphine hydrochloride;
(10) Hydrocodone;
(11) Hydromorphone;
(12) Metopon;
(13) Morphine;
(14) Oxycodone;
(15) Oxymorphone;
(16) Thebaine;

Section 5. Opiates. The Cabinet for Human Resources hereby designates as Schedule II controlled substances, in addition to those specified by KRS 218A.070, any of the following opiates, including its isomers, esters, ethers, salts and salts of isomers, esters, and ethers whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation, dextrorphan and levopropoxyphene excepted:
(1) Alfentanil;
(2) Bulk dextropropoxyphene (nondosage forms);
(3) Carfentanil;
(4) [(3)] Sufentanil.

C. HERNANDEZ, M.D., Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: March 29, 1991
FILED WITH LRC: April 12, 1991 at 2 p.m.

STATEMENT OF EMERGENCY
902 KAR 55:025E

Emergency regulation 902 KAR 55:025E is necessary in order to provide conformity with federal regulation 21 CFR 1308.13. In order to continue enforcement of abusable controlled substances as scheduled by federal regulations the Cabinet for Human Resources is required to implement this regulation. An ordinary regulation will not suffice due to the effective date required by the U.S. Drug Enforcement Administration. This emergency administrative regulation shall be replaced by an ordinary administrative regulation which will be filed with the Regulations Compiler on or before May 15, 1991.

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

CABINET FOR HUMAN RESOURCES
Department for Health Services
Division of Community Safety

902 KAR 55:025E. Schedule III substances.

RELATES TO: KRS Chapter 218A
STATUTORY AUTHORITY: KRS 194.050, 211.090, 218A.020, 218A.080, 218A.250
EFFECTIVE: April 12, 1991
NECESSITY AND FUNCTION: KRS 218A.080 provides that the Cabinet for Human Resources shall place a substance in Schedule III under the Kentucky Controlled Substances Act if: (1) the substance has a potential for abuse less than the substances listed in Schedules I and II; (2) the substance has currently accepted medical use in treatment in the United States; and (3) abuse of the substance may lead to moderate or low physical dependence or high psychological dependence. The Cabinet for Human Resources hereby finds that the substances in this regulation meet this criteria.

Section 1. Amphetamine and Methamphetamine Combination Products. The Cabinet for Human Resources hereby designates the following amphetamine and methamphetamine combination products as "Schedule III Controlled Substances" and any other drug of the quantitative composition shown below or which is the same except that it contains a lesser quantity of controlled substances, to wit:
(1) Mediatric; Tablet or capsule: Methamphetamine hydrochloride 1 mg.; conjugated estrogens-equine 0.25 mg.; methyl testosterone 2.5 mg; and
(2) Mediatric Liquid; Solution (15 cc.): Methamphetamine hydrochloride 1 mg.; conjugated estrogens-equine 0.25 mg.; methyl testosterone 2.5 mg.

Section 2. Stimulants. The Cabinet for Human Resources hereby designates as "Schedule III" controlled substances any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers (whether optical position or geometric), and salts of such isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:
(1) Benzphetamine;
(2) Chlorphentermine;
(3) Chlortermine; and
(4) Phendimetrazine.

Section 3. Depressants. The Cabinet for Human Resources hereby designates as "Schedule III" controlled substances the following:
(1) Any material, compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or any salt thereof and one (1) or more other active medicinal ingredients which is not a controlled substance.
(2) Any suppository dosage form containing amobarbital, secobarbital, pentobarbital, or any salt thereof which has been approved by the United States Food and Drug Administration for marketing only as a suppository.
(3) Tiletamine and zolazepam or any salt thereof. Trade or other names for tiletamine: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone. Trade or other names for zolazepam: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-(3,4-e) (1,4)-dizepin-7(1H)-one,flupyrazpon.

Section 4. Pentazocine Drug Products. The Cabinet for Human Resources hereby designates, in addition to the parenteral or injectable form of Pentazocine which is designated as a "Schedule III" controlled substance by KRS 218A.090(3), all other dosage forms of Pentazocine as "Schedule III" controlled substances. Any material, compound, mixture, or

preparation which contains any quantity of Pentazocine, including its salts, is hereby designated as a "Schedule III" controlled substance.

Section 5. Anabolic Steroids. The Cabinet for Human Resources hereby designates as "Schedule III Controlled Substances", in addition to those listed in KRS 218.090(5), any material, compound, mixture, or preparation which contains any quantity of the following substances, or any isomer, ester, salt, or derivative thereof:

(1) Boldenone;
(2) Chlorotestosterone;
(3) Dihydrotestosterone;
(4) Drostanolone;
(5) Formebulone;
(6) Methandranone;
(7) Methandriol;
(8) Mibolerone;
(9) Stanolone;
(10) Testolactone; and
(11) Trenbolone.

C. HERNANDEZ, M.D., Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: March 29, 1991
FILED WITH LRC: April 12, 1991 at 2 p.m.

STATEMENT OF EMERGENCY
903 KAR 5:290E

Under KRS Chapter 13A the administrative body is required to implement this regulation in order to have sufficient authority to establish 1991 contribution rates for Kentucky employers under the Unemployment Insurance Program. These rates are spelled out in 903 KAR 5:290 and per KRS 341.270, are predicated on the trust fund balance as of December 31 of any calendar year. An emergency regulation is needed because this information is necessary in assigning rates for first quarter, 1991 contribution reports which are due before promulgation of regulation through the normal process could occur. This emergency administrative regulation shall be replaced by an ordinary administrative regulation in accordance with KRS Chapter 13A. The ordinary administrative regulation will be filed with the Regulations Compiler on or before the effective date of the emergency administrative regulation.

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

CABINET FOR HUMAN RESOURCES
Department for Employment Services
Division of Unemployment Insurance

903 KAR 5:290E. Employer contribution rates.

RELATES TO: KRS 341.270
STATUTORY AUTHORITY: KRS 194.050, 341.270
EFFECTIVE: April 3, 1991
NECESSITY AND FUNCTION: KRS 341.270 requires the Secretary for Human Resources to determine the rate schedule for employer's contributions. The rate schedule in effect for each calendar year is determined by the "trust fund balance" as of December 31, of the preceding year. This regulation applies the mathematical computation required by KRS 341.270 and sets forth the applicable rates to be in effect for the calendar year.

Section 1. Trust Fund Balance. The secretary finds the following to exist:
(1) The "trust fund balance" as of December 31, 1990 [1989], was $413,909,901.94 [393,375,478.01].
(2) There was no outstanding loan from the Federal Unemployment Trust Fund as of December 31, 1990 [1989].

Section 2. Rate Schedule. On the basis of the findings in Section 1 of this regulation, and in accordance with KRS 341.270(3), Schedule A of Table A shall be in effect for calendar year 1991 [1990], because the "trust fund balance" equals or exceeds $350,000,000, on December 31, 1990 [1989]. Rates listed in Schedule A of Table A are listed below.

Employer Reserve Ratio	Rate Schedule
8.0% and over	0.30%
7.0% but under 8.0%	0.40%
6.0% but under 7.0%	0.50%
5.0% but under 6.0%	0.70%
4.6% but under 5.0%	1.00%
4.2% but under 4.6%	1.30%
3.9% but under 4.2%	1.50%
3.6% but under 3.9%	1.80%
3.2% but under 3.6%	2.00%
2.7% but under 3.2%	2.10%
2.0% but under 2.7%	2.20%
1.3% but under 2.0%	2.30%
0.0% but under 1.3%	2.40%
-0.5% but under -0.0%	6.50%
-1.0% but under -0.5%	6.75%
-1.5% but under -1.0%	7.00%
-2.0% but under -1.5%	7.25%
-3.0% but under -2.0%	7.50%
-4.0% but under -3.0%	7.75%
-6.0% but under -4.0%	8.25%
-8.0% but under -6.0%	8.50%
Less than 8.0%	9.00%

DARVIN ALLEN, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: March 28, 1991
FILED WITH LRC: April 3, 1991 at 9 a.m.

STATEMENT OF EMERGENCY
907 KAR 1:017E

This emergency administrative regulation is being amended to provide for the implementation of changes to HICAP as provided for by House Bill 21 of the 1991 Special Session of the General Assembly with the assessment set at five (5) percent and the hospital payments set at the statutory minimum amounts. This emergency administrative regulation differs from the emergency administrative regulation on the same subject matter that was filed on August 7, 1990 as follows: hospital assessment set at five (5) percent and the hospital payments set at the statutory minimum amounts. This emergency administrative regulation shall be replaced by an ordinary administrative regulation filed with the Regulations Compiler on or about April 1, 1991.

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

CABINET FOR HUMAN RESOURCES
Department for Medicaid Services

907 KAR 1:017E. Hospital indigent care assurance program (HICAP).

RELATES TO: KRS 205.520
STATUTORY AUTHORITY: KRS 194.050, 205.575, HB 21, 1991 Special Session GA
EFFECTIVE: March 28, 1991
NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance under Title XIX of the Social Security Act, and the Hospital Indigent Care Assurance Program (HICAP) under KRS 205.575. This regulation sets forth provisions relating to implementation of HICAP.

Section 1. Definitions. (1) For purposes of this regulation the following words or phrases shall have the same definition as shown in KRS 205.575:
(a) Hospital indigent care assurance program (HICAP);
(b) Department;
(c) Medicaid Assessment Revolving Trust (MART) fund;
(d) Medicaid Assessment Revolving Trust (MAIT) fund;
(e) [(d)] Hospital; and
(f) [(e)] Medical assistance program.
(2) "Nonparticipant" means a hospital not complying with the conditions of participation for HICAP.

Section 2. Conditions of Participation. Any hospital participating in the HICAP program shall comply with the following requirements:
(1) Pay to the department the hospital's assessment;
(2) Comply with the requirement contained in KRS 205.575 for the posting of a sign showing the hospital will accept patients under given circumstances; [and]
(3) Comply with the requirement contained in KRS 205.575 for acceptance of benefits of state health insurance coverage; and
(4) Comply with the requirement for provision of inpatient hospital benefits to indigent individuals and families with income up to 100 percent of the federal poverty level as specified in Section 1(15) of House Bill 21, 1991 Special Session, General Assembly (to be codified as KRS 205.575);
(5) Comply with the requirement for providing to Medicaid recipients additional days of coverage per hospital stay as specified in Section 1(14)(c) of House Bill 21, 1991 Special Session, General Assembly (to be codified as KRS 205.575);
(6) Comply with the requirement for accepting as payment in full benefits of student health insurance as specified in Section 1(14)(d) of House Bill 21, 1991 Special Session, General Assembly (to be codified as KRS 205.575); and
(7) Comply with the requirement for collecting and reporting to the department data on indigent patient days as specified in Section 1(14)(e) of House Bill 21, 1991 Special Session, General Assembly (to be codified as KRS 205.575).

Section 3. Departmental Actions Based on Noncompliance with Participation Requirements. (1) A hospital shall be considered a nonparticipant when it fails to meet one (1) or more of the participation requirements shown in Section 2 of this regulation. A hospital shall be notified in writing when the department determines the facility to be a nonparticipant. The department shall provide the hospital an opportunity to discuss with the department its determination prior to issuance of the written notification so the hospital may present any evidence it may wish the department to consider which relates to the hospital's compliance with conditions of participation.
(2) A hospital which is a nonparticipant shall not be paid HICAP benefits until all participation requirements are met.

Section 4. Assessments. The HICAP assessment payment amounts for the period beginning July 13, 1990 through December 31, 1990, shall be one (1) percent of each hospital's total inpatient and outpatient hospital costs for services to patients utilizing hospital cost reports available as of June 15, 1990. The assessment percentage for annual periods beginning January 1, 1991, shall be five (5) [one (1)] percent utilizing hospital cost reports used in setting the year's Medicaid hospital rates. From each year's assessments actually paid the cabinet, the department may [shall] reserve up to $1,000,000 as a contingency reserve and may reserve up to two (2) percent of the assessments for necessary administrative expenditures as provided for in House Bill 21, 1991 Special Session, General Assembly (to be codified in part in KRS 205.575 and as a new KRS section).

Section 5. HICAP Benefit Payments. (1) The HICAP benefit payment amounts for the period of July 13, 1990, through December 31, 1990, shall be computed in accordance with KRS 205.575 using hospital cost reports available as of June 15, 1990. For rate years beginning on or after January 1, 1991, the HICAP benefit payment amounts shall be the minimum amounts provided for in Section 1(6)(b) of House Bill 21, 1991 Special Session, General Assembly (to be codified as KRS 205.575) computed in accordance with Section 1(6)(b) of House Bill 21, 1991 Special Session, General Assembly (to be codified as KRS 205.575), plus $100,000 annually, [KRS 205.575] and the cost reports utilized shall be the cost reports used in setting hospital rates for the year.
(2) Disbursements shall be proportionate based on the ratio of the facility's Medicaid days compared to total Medicaid days (except for hold harmless amounts), taking into consideration funds available for disbursement. Disbursement adjustments based on appeal or audit may be paid from the contingency reserve or from the available fund amount (including amounts in the fund in a subsequent quarter if necessary).
(3) If a hospital appeals a departmental decision with regard to its assessment payment amount or its HICAP benefit amount to Franklin Circuit Court, it may nevertheless pay to the department the assessment payment amount computed by the department with the understanding that the payment shall not compromise its right of action in court and that its final assessment payment amount or HICAP benefit payment amount shall be contingent on expiration of the time of judicial appeals or on court determination.

Section 6. Allocation of Payments. Hospitals Shall be paid for the first one (1) percent of assessment the [any] HICAP benefit amounts based on Medicaid days, then hold harmless amounts as necessary sufficient to bring the hospitals' [total] payment [under the program] up to the amount of assessment [amount] paid; and for the second and third percents of assessment, the HICAP benefit amounts based on Medicaid days, then hold harmless amounts as necessary sufficient to bring the hospitals' payment up to the amount of assessment paid; and for the fourth and fifth percents of assessment, the HICAP benefit amounts based on Medicaid days, then hold harmless amounts as necessary sufficient to bring the hospitals' payment up to the amount of assessment paid; and then as necessary any additional HICAP benefits necessary to bring the total payment to each hospital up to an amount which is not less than that hospital's assessment plus $100,000 annually ($25,000 quarterly). The contingency reserve shall be used as necessary to ensure equitable continuing payments to hospitals meeting HICAP participant status and may be used as necessary for distribution to hospitals as hold harmless amounts.

Section 7. Assessment Schedules. (1) Assessment payments for the July 13, 1990, through September 30, 1990, period shall be due on or before September 30, 1990. Assessment payments for the October 1, 1990 - December 31, 1990 period shall be due on or before November 30, 1990. The assessment payment due date for each subsequent calendar quarter shall be on the last day of the second month of each quarter, except that the department may establish administratively different assessment schedules for the calendar quarters ending March 31, 1991 and June 30, 1991 to accommodate assessment and payment requirements mandated by House Bill 21, 1991 Special Session, General Assembly (to be codified as KRS 205.575).

(2) A hospital may request a delay in its assessment payment due date based on unforeseeable circumstances affecting the hospital's ability to pay in a timely manner. Unforeseeable circumstances may include, but are not limited to, substantial disruptions of management or operations from occurrences such as fire, flood, storm, bankruptcy or other demonstrated financial hardship. Simple inability to pay, unless combined with a filing of bankruptcy or other demonstrated financial hardship by the hospital, shall not constitute justification for a delayed payment schedule. If a delay is granted, the delay shall not exceed sixty (60) days. An appeal to the Franklin Circuit Court (or a higher court as appropriate) with regard to the assessment payment amount or the HICAP benefit amount shall be justification for a delay in payment of the assessment until the court case is resolved.

Section 8. Transfer of Excess MART Funds to the MAIT Fund. The department shall determine within thirty (30) days after payment to hospitals of each quarter's HICAP payments the amount of hospital assessment funds which are in excess of the amount required to meet the commitments for payments to hospitals, maintenance of the contingency reserve, and for use as administrative funds, and shall make the necessary request for transfer of the excess assessment amounts (plus accrued interest) to the MAIT fund for use in accordance with House Bill 21, 1991 Special Session, General Assembly (to be codified as KRS 205.575 and a new KRS section).

Section 9. [8.] Waiver of Late Payment Penalties. The commissioner of the department shall waive the late payment penalty specified in KRS 205.575 ($20,000 per incident of late payment) only when good cause exists. Good cause shall be determined to exist only when an unforeseeable circumstance occurs affecting timely payment. Unforeseeable circumstances may include substantial disruptions of management or operations from occurrences such as fire, flood, storm or similar events. Good cause may also exist when the responsible official of the hospital reasonably anticipated that payment was or should have been made (e.g., payment was mailed timely but lost in the mail). Failure to pay due to insufficient funds shall not be good cause for a waiver of the penalty unless combined with a bankruptcy filing of the hospital. An appeal to the Franklin Circuit Court (or a higher court as appropriate) with regard to the assessment payment amount or the HICAP benefit payment amount shall be considered to meet the criteria for good cause.

Section 10. [9.] General. The department shall perform other functions related to implementation of HICAP in accordance with the specific provisions shown in KRS 205.575 and House Bill 21, 1991 Special Session, General Assembly (to be codified as KRS 205.575 and a new KRS section).

Section 11. [10.] Effective Date. The provisions of this regulation shall be effective with regard to HICAP assessments and payments made for quarters ending on and after March 31, 1991 [July 13, 1990].

ROY BUTLER, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: March 18, 1991
FILED WITH LRC: March 28, 1991 at 9 a.m.

STATEMENT OF EMERGENCY
907 KAR 1:020E

This emergency administrative regulation is being amended to revise the pharmacy payment system to provide for the following changes: to use as a cost parameter in determining the estimated acquisition cost the Average Wholesale Price (AWP) minus ten (10) percent; the cabinet shall no longer establish and use the state maximum allowable cost as a parameter in determining the estimated acquisition cost; direct pricing shall not be used when an average wholesale price is available; payments may not be made for drugs not covered under a rebate agreement unless an exemption is appropriate; for nursing facility residents meeting Medicaid patient status there shall be no more than one (1) dispensing fee allowed per calendar month except for the Schedules II, III, and IV controlled substances and for nonsolid dosage forms, including topical medication preparations, for which no more than four (4) dispensing fees per drug shall be paid within a calendar month; for outpatients and individuals

not meeting Medicaid patient status criteria in nursing facilities, dispensing fees for legend intravenous solutions shall be limited to no more than four (4) calendar month; the special unit does pricing (as a dispensing fee add-on) ha been reduced from four (4) cents to two (2) cents per unit dose for unit dose drugs packaged in unit dose form by the manufacturer and from six (6) cents to four (4) cents per unit dose for unit dose drugs packaged in unit dose form by the pharmacist; and to provide for use of a tape pricing service (Medi-Span, Inc.). These actions are necessary to comply with federally mandated upper limits for drugs or to achieve equitable payments for providers and must be implemented on an emergency basis to avoid potential federal sanctions or unnecessary harm to the provider. This emergency administrative regulation differs from the emergency administrative regulation on the same subject matter that was filed on December 28, 1990 as follows: removes the use of direct pricing when an average wholesale price is available and provides that payments for drugs are limited to drugs for which a rebate agreement is available unless an exemption is appropriate. This emergency administrative regulation shall be replaced by an ordinary administrative regulation filed with the Regulations Compiler on or about April 1, 1991.

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

CABINET FOR HUMAN RESOURCES
Department for Medicaid Services

907 KAR 1:020E. Payment for drugs.

RELATES TO: KRS [205.550,] 205.560
STATUTORY AUTHORITY: KRS 194.050, 42 CFR 440.120, 447.31, 447.332, 447.333, 42 USC 1396a, b, c, d
EFFECTIVE: April 3, 1991
NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer a program of Medical Assistance [under Title XIX of the Social Security Act]. KRS [205.550 and] 205.560 requires that the secretary prescribe the methods for determining costs for vendor payments for medical services. This regulation sets forth the method for determining amounts payable by the department for drugs.

Section 1. Maximum Allowable Cost Reimbursement Limits. (1) Reimbursement to pharmacies participating in the Medical Assistance Program for those drugs contained on the Kentucky Medical Assistance Program Outpatient Drug List (as published by the Cabinet for Human Resources) or preauthorized for individual recipients based on medical necessity (and for which, effective May 1, 1991, appropriate rebate agreements have been signed by the manufacturer or labeler or which is provided based on a preauthorized exemption from the rebate requirement) and provided to eligible recipients shall be determined in accordance with the following policies [is limited to the lowest of]:

(a) Drug costs shall be determined in the pharmacy program using a computerized price listing service with pricing based on the actual package size utilized. The state maximum allowable cost (SMAC) amounts in effect on October 1, 1990 shall be frozen in place and effective for services provided through December 27, 1990. The SMAC shall not be used for services provided on or after December 27, 1990.

(b) Effective with regard to services provided through December 27, 1990, when an average wholesale price (AWP) and direct price are listed by the price listing service, reimbursement for the drug cost shall be the lesser of the SMAC, federal maximum allowable cost (FMAC), or AWP minus five (5) percent, plus a dispensing fee (and unit dose add-on, as appropriate) or the billed charge unless the physician has written "do not substitute" or "brand necessary" on the prescription. Effective with regard to services provided on or after December 28, 1990, when an average wholesale price (AWP) and a direct price is listed for drugs provided by those companies who had determined that at least fifty (50) percent of their products were sold directly to Kentucky pharmacies, and for which the Medicaid Program used direct pricing as of September 30, 1990, reimbursement for the drug cost shall be the lesser of the direct price, the FMAC, or AWP minus ten (10) percent, plus a dispensing fee (and unit dose add-on, as appropriate) or the usual and customary billed charge unless the physician has written "do not substitute" or "brand necessary" on the prescription. Effective with regard to services provided on or after April 1, 1991, when an average wholesale price is listed, reimbursement for the drug cost shall be the lesser of the FMAC or AWP minus ten (10) percent plus a dispensing fee (and unit dose add-on as appropriate) or the usual and customary billed charge unless a physician has written "do not substitute" or "brand necessary" on the prescription.

(c) Effective with regard to services provided through December 27, 1990, if an AWP is not listed, reimbursement shall be the lesser of the SMAC, FMAC, or direct price plus a dispensing fee (and unit dose add-on, as appropriate), or the usual and customary billed charge unless the physician has written "do not substitute" or "brand necessary" on the prescription. Effective with regard to services provided on or after December 28, 1990, if an AWP is not listed, reimbursement shall be the lesser of the FMAC or direct price plus a dispensing fee (and unit dose add-on, as appropriate), or the usual and customary billed charge unless the physician has written "do not substitute" or "brand necessary" on the prescription.

(d) If the physician has written "do not substitute" or "brand necessary" on the prescription, reimbursement shall be based on the lower of the pharmacy's usual and customary charge or the estimated acquisition cost (EAC) (AWP minus ten (10) percent or direct price as appropriate) for the respective drug plus a dispensing fee (and unit dose add-on, as appropriate).

[(a) The maximum allowable cost (MAC) of the drug, if any, whether federal or state or both, plus a dispensing fee; or]

[(b) The estimated acquisition cost (EAC) of the drug plus a dispensing fee; or]

[(c) The provider's usual and customary charge to the public for a like product and service.]

[(2) Reimbursement to skilled nursing and intermediate care facilities for drugs provided to eligible recipients is allowable in accordance with the following:]

[(a) The Kentucky Medical Assistance Program Outpatient Drug List (with additions and deletions thereto) shall be provided by the program to each participating facility, and for the drugs contained therein, the limits specified in subsection (1) of this section are applicable;]

[(b) For drugs not on the drug list, the maximum reimbursement shall be the same as set forth in subsection (1)(a) through (c) of this section. EAC's shall be determined in the same manner as for drugs included on the outpatient drug list. SNF/ICF facilities shall not impose an additional charge on medicaid eligible recipients for drugs because of the limitations set forth in Section 1(2) of this regulation;]

[(c) A packaging cost allowance of not more than six (6) cents per dose may be added to the drug cost (if not already included) for unit dose packaged drugs. The packaging cost (up to six (6) cents, plus the drug cost is added to the dispensing fee to determine the total reimbursement amount for a unit dose packaged prescription;]

(e) For nursing facility residents meeting Medicaid patient status criteria, [(d)] there shall be (effective December 28, 1990) no more than one (1) [two (2)] dispensing fee[s] allowed per drug within a calendar month for maintenance drugs (as determined by the Medicaid agency), and no more than two (2) dispensing fees allowed per drug within a calendar month for other drugs, [thirty (30) day period,] except for Schedules II, III, and IV controlled substances and for nonsolid dosage forms, including topical medication preparations, for which no more than four (4) dispensing fees per drug shall [will] be allowed [paid] within a calendar month. For nursing facility residents not meeting Medicaid patient status criteria and nonresidents of nursing facilities, there shall be no more than one (1) dispensing fee allowed per drug per calendar month for drugs classified by the Medicaid Program as maintenance drugs and no more than four (4) dispensing fees shall be allowed per drug within a calendar month for legend intravenous drugs. [thirty (30) day period.] Though dispensing fees are limited, this shall not be construed as placing a limit on the quantity of reimbursable drugs for which the program will pay for any patient, since the reasonable cost of the drug (as defined herein) is reimbursable as a covered service in whatever quantity is considered medically necessary for the patient. Nonsolid dosage forms include all covered drug items other than oral tablets or capsule forms. [Drug items or other related supplies purchased for routine use and which may be purchased without a prescription, including food supplements, are not reimbursable in SNFs or ICFs under the drug program, though the cost of such drug, supply item or food supplement, is an allowable cost for the facility with the cost computed in accordance with the state regulation covering medicaid reimbursement for the facility;]

(f) [(e)] Whenever possible, unused drugs paid for by the department shall be returned to the pharmacy with the credit for the cost of the drug and the unit dose packaging cost (if applicable) accruing to the cabinet. [as an offset against allowable ancillary cost; and]

[(f) Interim payments made to participating facilities for allowable drug costs shall be settled at actual allowable costs computed in accordance with the upper limits shown herein at the end of the facilities' fiscal year.]

(2) [(3)] Reimbursement to hospitals for drugs provided to eligible recipients is on the basis of reasonable cost pursuant to 907 KAR 1:013. While reimbursement for drugs provided to patients in brain injury units in nursing facilities and units providing ventilator dependent care in nursing facilities is within the all-inclusive rate for the brain injury unit or ventilator care unit, the upper limits in this regulation shall be applicable with regard to payments for drugs provided in those settings.

[Section 2. Physician Maximum Allowable Cost (MAC) Override. The MAC price limitation in Section 1 of this regulation shall not apply in any case where a physician certifies in his own handwriting that in his medical judgment, a specific covered brand is medically necessary for a particular patient. In such instances, reimbursement shall be based on the lower of the EAC plus a professional dispensing fee or the provider's usual and customary charge to the public for the drug.]

Section 2. [3.] Dispensing Fees. (1) [Effective July 1, 1984,] The dispensing fee shall be [no more than] three (3) dollars and twenty-five (25) cents per prescription for drugs reimbursed through the outpatient drug program to all eligible recipients except those in nursing facilities. [, as shown in Section 1(1) of this regulation, where the covered drugs are limited to those contained on the Kentucky Medical Assistance Program Outpatient Drug List. The allowable dispensing fee shall be no more than three (3) dollars and twenty-five (25) cents (except for the additional amount for unit dose packaging as shown in Section 1(2)(c) of this regulation) for drugs reimbursed as part of the covered services of skilled nursing and intermediate care facilities, as shown in Section 1(2) of this regulation.]

(2) Effective with regard to services provided through December 27, 1990, for eligible recipients in nursing facilities, an addition to the usual dispensing fee of three (3) dollars and twenty-five (25) cents shall be made for drugs dispensed through the pharmacy outpatient drug program in the amount of four (4) cents per unit dose for unit dose drugs packaged in unit dose form by the manufacturer and six (6) cents per unit dose for unit dose drugs packaged in unit dose form by the pharmacist. Effective with regard to services provided on or after December 28, 1990, for eligible recipients in nursing facilities, an addition to the usual dispensing fee of three (3) dollars and twenty-five (25) cents shall be made for drugs dispensed through the pharmacy outpatient drug program in the amount of two (2) cents per unit dose for unit dose drugs packaged in unit dose form by the manufacturer and four (4) cents per unit dose for unit dose drugs packaged in unit dose form by the pharmacist; effective May 1, 1991 the unit dose dispensing fee addition shall be paid, as appropriate, even though the usual dispensing fee of three (3) dollars and twenty-five (25) cents is not paid due to monthly limits on dispensing fees.

Section 3. [4.] Reimbursement to Dispensing Physicians. Participating dispensing physicians who practice in counties where no pharmacies are

located are reimbursed for the cost of the drug only, with the cost computed as the maximum allowable cost or estimated acquisition cost as shown in Section 1(1) of this regulation, or the physician's usual and customary charge to the general public for the drug if less, or in accordance with 907 KAR 1:010 for drugs purchased on the open mrket for specified immunizations shown in 907 KAR 1:009.

Section 4. Effective Date. The amendments to this regulation, except as otherwise provided, shall be effective with regard to services provided on and after October 1, 1990.

ROY BUTLER, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: March 28, 1991
FILED WITH LRC: April 3, 1991 at 9 a.m.

REGULATIONS AS AMENDED BY PROMULGATING AGENCY AND REVIEWING SUBCOMMITTEE

COMPILER'S NOTE: The following regulations were amended by the promulgating agency and the Administrative Regulation Review Subcommittee unless otherwise noted.

LEGISATIVE RESEARCH COMMISSION
Capital Planning Advisory Board
(As Amended)

1 KAR 6:010. Policies and procedures.

RELATES TO: KRS Chapter 7A
STATUTORY AUTHORITY: KRS 7A.140
NECESSITY AND FUNCTION: KRS 7A.140 authorizes the Capital Planning Advisory Board to adopt any administrative regulations necessary to carry out its planning and advisory functions. The purpose of this regulation is to establish the policies and procedures for the capital planning process.

Section 1. <u>For the 1991 planning period,</u> the Governor, the Chief Justice, and the Legislative Research Commission shall provide:
(1) Statements of the type and amount of space currently occupied by their respective agencies in Franklin, Fayette, Jefferson, Boone, Kenton, and Campbell counties; and
(2) Projections of future space needs in those counties through FY 1996.

Section 2. State agencies, other than institutions of higher education, shall submit information specified by the board in the document titled "State Agencies Six-Year Capital Plan Instructions." This document, dated February 1, 1991, is incorporated by reference and may be reviewed or obtained at the Office of the Capital Planning Advisory Board, Room 2A, Capitol Annex, Frankfort, Kentucky 40601, Monday through Friday from 8 a.m. to 4:30 p.m. (EST).

Section 3. Institutions of higher education shall submit information specified by the board in the document titled "Higher Education Institutions Six-Year Capital Plan Instructions." This document, dated February 1, 1991, is incorporated by reference and may be reviewed or obtained at the Office of the Capital Planning Advisory Board, Room 2A, Capitol Annex, Frankfort, Kentucky 40601, Monday through Friday from 8 a.m. to 4:30 p.m. (EST).

Section 4. Agencies providing information to the Kentucky Information Systems Commission pursuant to KRS 61.950 shall not be required to provide that information to the board.
(1) The Kentucky Information Systems Commission shall provide the board with the following information:
(a) List and approval or disapproval status of all submitted computing and communciations items;
(b) List of the selected computing items on which the Kentucky Information Systems Commission places high value; and
(c) List of selected high-value communications items, primarily those related to a statewide network.
(2) The board may utilize the information received from the Kentucky Information Systems Commission in the formulation of the board's statewide six-year capital improvement plan.

Section 5. The board shall exclude road projects from its information request for the 1991 planning period, and accept, for review only, the Highway Biennial Construction and Preconstruction Program developed pursuant to KRS 176.440 by the Transportation Cabinet as reviewed by the General Assembly's Interim Joint Committee on Transportation.

Section 6. In providing the information required by KRS 7A.120, state agencies and institutions of higher education shall include any lease of real property where the estimated cost of purchasing the real property is $200,000 or more, separately in the forms required by Sections 2 and 3 of this regulation, as appropriate.

Section 7. An agency providing any information to the board on behalf of another agency shall submit written notice to the board by May 15, 1991, specifying the type of information to be provided and the date by which it shall be provided.

REP. MARSHAL LONG, Chairman
APPROVED BY AGENCY: February 1, 1991
FILED WITH LRC: February 6, 1991 at 4 p.m.

STATE BOARD OF ELECTIONS
(As Amended)

31 KAR 4:060. Biennial purge.

RELATES TO: KRS 116.112
STATUTORY AUTHORITY: KRS 116.112(1)
NECESSITY AND FUNCTION: To provide a schedule to conduct a purge of ineligible and deceased voters in every even-numbered year beginning with the July 1, 1990 fiscal year.

Section 1. (1) Notice to registered voters to be purged as ineligible or deceased shall begin January 1, 1991, and shall be completed no later than the close of registration books for the primary election, April 29, 1991.
(2) The board elects to use the United States Postal Service Address Information System (AIS) to determine voters to whom notice shall be mailed.

Section 2. The board shall notify a county clerk of the:
(1) Names of voters in his county to whom purgation notices have been mailed; and
(2) Date the purgation notices were mailed.

Section 3. The purgation notice, <u>January 1, 1991,</u> required by KRS 116.112(4) is hereby incorporated by reference. <u>Copies of the purgation notice may be inspected or obtained at the Office of the State Board of Elections, Room 71, Capitol Building, Frankfort, Kentucky 40601, between the hours of 8 a.m. through 4:30 p.m., EST, Monday through Friday.</u>

BREMER EHRLER, Chairman
APPROVED BY AGENCY: February 7, 1991
FILED WITH LRC: February 7, 1991 at 2 p.m.

PERSONNEL BOARD
(As Amended)

101 KAR 1:325. Probationary periods.

RELATES TO: KRS 18A.075, 18A.0751, 18A.111
STATUTORY AUTHORITY: KRS Chapter 13A, 18A.0751
NECESSITY AND FUNCTION: KRS 18A.075 requires the Personnel Board to promulgate comprehensive administrative regulations consistent with the provisions of KRS 18A.005 to 18A.200. KRS 18A.0751 specifies that the Personnel Board promulgate comprehensive administrative regulations for the classified service governing probation. KRS 18A.111 relates specifically to probationary periods.

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

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

TITLE CODE	JOB CLASSIFICATION	LENGTH OF INITIAL PROBATIONARY PERIOD
2001	Fish and Wildlife **Conservation** [Law Enforcement] Officer Trainee	12 months
2112	DES Duty Officer	12 months
2113	DES Duty Officer Senior	12 months
2306	Park Ranger	12 months
2312	Park Ranger Captain	12 months
2408	MVE Trainee	12 months
[2410	MVE Officer Trainee	12 months]
2435	MVE Inspector Trainee	12 months
2480	Water Patrol Officer [Second Class]	12 months
[2481	Water Patrol Officer First Class]	12 months
2493	Mounted Security Office	12 months
2494	Mounted Security Sergeant	12 months
2495	Mounted Security Captain	12 months
2496	Mounted Security Officer Trainee	12 months
3254	Boiler Inspector Trainee	12 months
3416	Financial Institution Examiner Trainee	12 months
[5105	Vocational Education Instructor	12 months
5108	Industrial and Trade Instructor	12 months
5110	MSHA Instructor	12 months
5126	Teacher of Blind and/or Visually Impaired Rank III	12 months
5127	Teacher of Blind and/or Visually Impaired Rank II	12 months
5128	Teacher of Blind and/or Visually Impaired Rank I	12 months
5131	Teacher of Deaf and/or Hearing Impaired Rank III	12 months
5132	Teacher of Deaf and/or Hearing Impaired Rank II	12 months
5133	Teacher of Deaf and/or Hearing Impaired Rank I]	12 months
5141	Education Teacher Rank III	12 months
5142	Education Teacher Rank II	12 months
5143	Education Teacher Rank I	12 months
7203	Forest Guard	12 months
7205	Forest Ranger	12 months
7207	Forest Ranger Unit	12 months
7209	Forest Ranger District	12 months
7213	Forestry District Equipment Supervisor	12 months
7215	Nursery Foreman	12 months
7217	Nursery Superintendent	12 months
7221	Forester	12 months
7222	Forester Senior	12 months
7224	Forester Chief	12 months
7226	Forester District	12 months
7228	Forester Regional	12 months
7231	Rural Fire Suppression Technical Advisor	12 months
7232	Forestry Program Specialist	12 months
7233	Forestry Program Coordinator	12 months
7235	Forestry Program Manager	12 months

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

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

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

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

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

THOMAS C. GREENWELL, Commissioner
JAMES M. SHAKE, Chairman
APPROVED BY AGENCY: February 5, 1991
FILED WITH LRC: February 15, 1991 at 9 a.m.

COMPILER'S NOTE: 201 KAR 11:121 was amended by the promulgating agency and the Interim Joint Committee on Business Organizations and Professions, and became effective on April 12, 1991.

GENERAL GOVERNMENT CABINET
Kentucky Real Estate Commission
(As Amended)

201 KAR 11:121. Improper conduct.

RELATES TO: KRS [Chapter] 324.160
STATUTORY AUTHORITY: KRS [Chapter 13A,] 324.281(5), 324.282
NECESSITY AND FUNCTION: To inform and set certain standards for the licensees and to protect the public.

Section 1. The following shall be improper for any licensed agent:

(1) To accept or agree to accept, without written disclosure to the seller and buyer, a referral fee from any person in return for directing a client or customer to such person, or another, who provides or agrees to provide any goods, service insurance or financing related to a transaction involving real estate. This provision shall not affect paying or receiving referral fees between licensed agents for brokerage services.

[(2) To negotiate or attempt to negotiate, concerning real estate listed with a licensed agent, with the owner of said real estate, or with anyone other than the listing agent or agents in the listing agent's company, without the consent of the listing agent and the owner.]

(2) [(3)] To offer, either through advertising, direct contact or by others, to the general public, any prize, money, free gift, rebate or any other thing of value, as an inducement. It shall not be improper conduct to disseminate information:

(a) About the fee or other compensation the licensed agent agrees to charge for his services; or

(b) About inducements offered by the licensed agent's client.

(3) [(4)] To refuse or prohibit any prospective purchaser from viewing or inspecting real estate listed for sale or lease with the agent, or with the agent's company, without the written and signed direction of the owner.

(4) [(5)] To fail to act in accordance with a fiduciary standard toward his client. [Client in this regulation means the person or persons the agent has agreed to represent, either expressly or by implication.]

(5)(a) To advertise guaranteed sales plan without required disclosure of:

1. Whether a fee is charged for participation;

2. Whether the real estate must meet qualifications for participation;

3. Whether the purchase price under a guarantee of purchase of the owner's real estate will be determined by the licensee or a third party; and

4. Whether the owner of the real estate must purchase other real estate listed for sale by the licensee or his designee.

(b) "Guaranteed sales plan" means an offer or solicitation:

1. To guarantee the sale of an owner's real estate; or

2. To guarantee the purchase of the owner's real estate if the owner's real estate is not sold by the licensee.

(c) "Required disclosure" means:

1. In print advertising, that the disclosure shall be in letters at least twenty-five (25) percent the size of the largest letters in the advertisement; and

2. In radio advertising, that the disclosure shall be verbal and clearly understandable; and

3. In television advertising, that the disclosure shall:

a. Be verbal and clearly understandable; or

b. Be written appearing on the screen at least three (3) seconds for the first line of lettering and one (1) second for each additional line of lettering and in letters:

(i) Which are eighteen (18) video scan lines in size for letters which are all upper case; or

(ii) Which are twenty-four (24) video scan lines in size for upper case capitals when upper case capitals and lower case letters are used.

[(5) [(6)] For any licensee who publicly advertises for listings that "if we cannot sell your home, we will buy your home" or words of similar effect, without disclosing in said advertising the exact conditions under which said licensee will agree to buy said home and the manner in which the purchase price the licensee will agree to pay will be calculated. The disclosure required by this regulation shall be in letters which are at least one-half (1/2) the size of the letters used in making the offer "if we cannot sell your home, we will buy your home" or words of similar effect.]

(6) [(7)] To violate a statute or administrative regulation governing brokers, sales associates, or real estate transactions.

GEORGE G. SIRK, JR., Chairman
APPROVED BY AGENCY: December 11, 1990
FILED WITH LRC: December 12, 1990 at 10 a.m.

CORRECTIONS CABINET
(As Amended)

501 KAR 9:025. Administration; management.

RELATES TO: KRS 441.057, 610.330, 610.340, 645.120
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 2. [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 3. [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 4. [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 KRS 610.340 [relevant federal and state laws and regulations].

(4) The jailer shall require that juveniles and a parent or legal guardian 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 and 610.340. Upon an order of expungement, pursuant to 610.330(3) 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 610.330 [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.

Section 5. This administrative regulation shall expire on adjournment of the next regular session of the General Assembly.

JOHN T. WIGGINTON, Secretary
APPROVED BY AGENCY: February 15, 1991
FILED WITH LRC: February 15, 1991 at noon

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

815 KAR 20:073. Installation standards for water and waste piping material of types K, L, M and DWV copper; types R-K, R-L, R-DWV brass tubing and seamless stainless steel tubing, G or H.

RELATES TO: KRS Chapter 318
STATUTORY AUTHORITY: KRS 318.130
NECESSITY AND FUNCTION: The department is directed by KRS 318.130 through the State Plumbing Code Committee to adopt and put into effect a State Plumbing Code. This regulation relates to the proper installation of copper pipe and fittings. This amendment is necessary to bring the regulation into technical compliance with KRS Chapter 13A. No other substantive changes were made.

Section 1. The installation of copper, brass and seamless stainless steel tubing water and waste piping shall [should] be made according to recommended procedures, since care taken in installing will assure the satisfactory performance of the plumbing water distribution and drainage systems.

Section 2. Cutting, Reaming and Sizing. (1) Tube shall [should] be cut to exact length with a square cut using tube cutters, hacksaw blade or abrasive saw.

(2) Tube shall have burrs and slivers removed by using a reamer or other appropriate tool.

(3) Tube shall be brought to true dimensions and roundness by using a sizing tool which consists of a plug and ring.

Section 3. Cleaning. Surfaces to be joined shall [must] be clean and free from oil, grease and heavy oxides. Clean the end of the tube a distance slightly more than is required to enter the socket of the fitting with fine sand cloth or special wire brushes.

Section 4. Jointing Techniques. (1) Soldered joints. After cleaning, cover the surfaces with a thin film of mildly corrosive liquid or petroleum based pastes that contain chlorides of zinc and ammonium. No "so-called" self-cleaning flux shall [is to] be used in lieu of cleaning pipe as outlined in Section 3 of this regulation. Wipe off excess flux in fitting socket. Insert tube end into socket, making sure the tube is firmly seated against the end of the socket. Remove excess flux with a rag. Apply heat to the fitting and then move in order to heat as large an area as possible. Do not overheat. When the joint is hot enough, the solder will melt on contact with the pipe and will flow by capillary attraction into joint. Remove heat and allow to cool before moving (refer to 815 KAR 20:060[, Section 17]).

(2) Brazed joints. After cleaning, cover the surface of the tube end and the fitting socket with a thin film of flux in accordance with the recommendations of the manufacturer of the brazing filler metal being used. Avoid getting flux inside the tube itself. Flux may be omitted when joining copper tube to wrought copper fittings with copper-phosphorus alloys (B-cup Series) which are self fluxing on copper. Insert tube end into socket hard against the stop and turn if possible. Apply heat to parts to be joined, heating the tube first, then the fitting at the base of the cup. Apply brazing wire, rod or strip where tube enters the socket of the fitting. Remove heat and allow to cool.

(3) Flared joints; impact tools.

(a) See Sections 2 and 3 of this regulation.

(b) Slip the coupling nut over the end of the tube.

(c) Insert flaring tool into the tube end and drive the flaring tool by hammer strokes expanding the end of the tube to the desired flare.

(d) Place the fitting squarely against the flare. Engage the coupling nut with the fitting threads. Tighten with two (2) wrenches, one (1) on the nut and one (1) on the fitting.

(4) Screw type flaring block.

(a) Follow subsection (3)(a) and (b) of this section for impact flaring.

(b) Clamp the tube in the flaring block so that the tube is slightly above the block. Place the yoke of the flaring tool on the block so that the beveled end of the compression cone is over the tube end. Turn the compressor screw down firmly, forming the flare between the chamber in the flaring block and the beveled compressor cone. Remove the flaring tool and assemble as in subsection (3)(d) of this section.

(5) Mechanically formed tee connection.

(a) For use in domestic hot and cold water distribution systems above ground only.

(b) Mechanically extracted collars shall be formed in a continuous operation consisting of drilling a pilot hole and drawing out the tube surface to form a collar having a height of not less than three (3) times the thickness of the tube wall. The collaring device shall be fully adjustable so to insure proper tolerance and complete uniformity of the joint.

(c) The joining branch tube shall be no less than one (1) pipe size smaller than the main and shall be notched and dimpled in a single process [so as] to set the proper penetration of the branch tube into the fitting to assure a free flow joint.

(d) All joints shall be brazed in accordance with subsection (2) of this section and the manufacturer's instructions. [Copper Development Association, Copper Tube Handbook using B-cup filler metal. A copy of this standard may be obtained by writing the Association at Greenwich Office Park #2, Box 1840, Greenwich, CT 06836.] NOTE: Soldered joints shall [will] not be permitted.

Section 5. Hangers and Supports. Hangers, anchors and supports shall be of material of sufficient strength to support the piping and its contents. Hangers, anchors and supports shall be securely attached to the building

construction at sufficiently close intervals to support the piping and its contents. Provisions shall be made to allow for expansion, contraction, structural settlement and vibrations.

(1) Vertical piping. Copper tubing shall be supported at each story for piping one and one-half (1 1/2) inches and larger in diameter. For piping one and one-quarter (1 1/4) inches and smaller in diameter, it shall be supported at each story and not more than ten (10) foot intervals. Supports shall be of copper material of sufficient strength which will not adversely react with the piping material.

(2) Horizontal piping. Copper tubing shall be supported at six (6) foot intervals for one (1) inch and smaller in diameter and ten (10) foot intervals for one and one-quarter (1 1/4) inch and larger. Supports shall be of copper material of sufficient strength which will not adversely react with the piping material.

CHARLES A. COTTON, Commissioner
THEODORE T. COLLEY, Secretary
APPROVED BY AGENCY: January 15, 1991
FILED WITH LRC: January 28, 1991 at 3 p.m.

PUBLIC PROTECTION & REGULATION CABINET
Department of Housing, Buildings & Construction
Office of State Fire Marshal
(As Amended)

815 KAR 35:015. Certification of electrical inspectors.

RELATES TO: KRS Chapter 227
STATUTORY AUTHORITY: KRS 12.080, 227.489, 227.830
NECESSITY AND FUNCTION: The Commissioner of Housing is required by KRS 227.489 to certify electrical inspectors based on standards of the National Electrical Code. This regulation is needed to establish the procedures for achieving and maintaining the [such] certification. This amendment is necessary to bring the regulation into technical compliance with KRS Chapter 13A. No other substantive changes were made.

Section 1. Definitions. The following words and terms, when used in this regulation shall have the meanings indicated:

(1) "Applicant" means the person seeking to be certified as an electrical inspector.

(2) "Authority having jurisdiction" as used in the National Electrical Code means the Department of Housing, Buildings and Construction.

(3) "Certified electrical inspector" means any person who has met the criteria established by the commissioner, has satisfactorily passed the examination as required by this regulation, and has received a certificate attesting thereto. The categories are:

(a) One (1) and two (2) family - persons who have passed the NCPCCI examination and persons classified as residential inspectors on the effective date of this regulation. These inspectors are deemed qualified to perform electrical inspections and approve electrical installations related to one (1) and two (2) family dwellings and mobile homes only.

(b) General - persons who have passed the NCPCCI examination of the same name and persons classified as commercial inspectors on the effective date of this regulation. These inspectors are deemed qualified to inspect and approve all types of residential, commercial, industrial and other properties which require electrical inspection.

(4) "Code" means the National Electrical Code (NEC) and any amendments thereto which are adopted by the department.

(5) "Commissioner" means the Commissioner of Housing, Buildings and Construction.

(6) "Department" means the Department of Housing, Buildings and Construction.

(7) "Electrical" means the installation of wires and conduits for the purpose of transmitting electricity, and the installation of fixtures and equipment in connection therewith.

(8) "Electrical industry" means those engaged in the generation, transmission and distribution of electricity; the design, manufacture, construction, installation, alteration or repair of electrical wiring facilities and apparatus for the utilization of electricity.

(9) "Employee" means one who is employed on a full-time, part-time, or contractual basis.

(10) "Temporary certification" means a certificate issued by the department which is valid for a limited period of time. The department shall [may] issue [such] temporary certification to qualified persons under the conditions of Section 4 of this regulation.

(11) "NCPCCI" means National Certification Program for Construction Code Inspectors and are examinations developed by national code enforcement organizations in collaboration with the Educational Testing Service for the purpose of providing nationally recognized evidence of competence and professionalism in construction code enforcement.

Section 2. Applicability. This regulation shall apply to all electrical inspectors in the Commonwealth of Kentucky, and to applicants for certification as electrical inspectors.

Section 3. Responsibilities of the Commissioner of Housing, Buildings and Construction. (1) The Commissioner of Housing shall require inspectors to be certified. Examinations shall be based on the National Electrical Code.

(2) The commissioner shall administer this regulation and provide for continuing education of certified electrical inspectors and schedule examinations at regular intervals.

(3) It shall be the duty of the commissioner to investigate all complaints of alleged misconduct of any electrical inspector as certified under this regulation when, in the opinion of the commissioner, there is sufficient evidence to suggest that [such] misconduct exists.

Section 4. Applications Requirements for Temporary Certification. Prior to being examined by the commissioner for "temporary certification" as an electrical inspector, the applicant shall meet the following requirements:

(1) An applicant for temporary certification: "one (1) and two (2) family dwelling" shall meet the following requirements:

(a) Applicant shall either have had not less than five (5) years of current experience in the installation and/or design, of all types of residential wiring systems, installed in

accordance with the National Electrical Code; or he shall be a registered professional electrical engineer, and shall have been registered and engaged in the practice of his profession for not less than three (3) years.

EXCEPTION: In circumstances where an applicant cannot show the precise experience required above, the applicant may request to appear before the electrical advisory committee to establish his background in electrical construction familiarity through other means. The electrical advisory committee shall review the [such] documentation and approve the applicant under this section if it is satisfied that the level of exposure to construction practices is substantially equivalent.

(b) The applicant shall possess the ability to read and write the English language and possess a general educational level satisfactory to perform his duties.

(c) The applicant shall submit a duly notarized application, which shall be supplied by the department on request, wherein all pertinent personal information and experience shall be stated. Application shall [must] be received by the department at least thirty (30) days prior to the next scheduled electrical advisory committee meeting.

(d) Application for temporary certification shall be accompanied by a written statement of need for [such] certification from the local official responsible for the electrical or building inspection program.

(e) A fee of twenty-five (25) dollars shall accompany the application, consisting of a check or money order payable to the Treasurer, Commonwealth of Kentucky.

(2) An applicant for temporary certification: "general" shall meet the following requirements:

(a) Applicant shall either have not less than five (5) years of current experience in the installation and/or design of all types residential, commercial and industrial wiring systems installed in accordance with the National Electrical Code; or he shall be a registered professional electrical engineer, and shall have been engaged in his profession for not less than three (3) years.

EXCEPTION: In circumstances where an applicant cannot show the precise experience required above, the applicant may request to appear before the electrical advisory committee to establish his background in electrical construction familiarity through other means. The electrical advisory committee shall review the [such] documentation and approve the applicant under this section if it is satisfied that the level of exposure to construction practices is substantially equivalent.

(b) The applicant shall possess the ability to read and write the English language and possess a general educational level satisfactory to perform his duties.

(c) The applicant shall submit a duly notarized application, which shall be supplied by the department on request, wherein all pertinent personal information and experience shall be stated. Application shall [must] be received by the department at least thirty (30) days prior to the next scheduled electrical advisory committee meeting.

(d) Application for temporary certification shall be accompanied by a written statement of need for [such] certification from the local official responsible for the electrical or building inspection program.

(e) A fee of twenty-five (25) dollars shall accompany the application, consisting of a check or money order payable to the Treasurer, Commonwealth of Kentucky.

(3) Any applicant shall [may] receive credit earned for any electrical courses satisfactorily completed from any accredited vocational school or college on a year-for-year basis. Credit for education to replace applicant's experience requirements shall be limited to a total of two (2) years.

(4) The electrical advisory committee shall [will] review all applicants to determine their eligibility to sit for the examination.

(5) Temporary certification shall expire at the end of eighteen (18) months from the time of initial certification and shall not be reissued after that period of time has expired.

Section 5. Examinations for Temporary Certification. (1) Following the review and acceptance of the applicant's qualifications by the electrical advisory committee, the applicant shall [must] pass the department's written examination for the class of temporary certification.

(2) Examinations for qualified applicants shall be administered within thirty (30) days after acceptance by the electrical advisory committee. Examinations required under this section shall [will] be administered at the department's office in Frankfort, Kentucky, unless another location is specifically designated.

(3) Examinations shall be based on the National Electrical Code and shall be open book.

(4) A grade of seventy (70) percent shall be considered passing. An applicant, otherwise qualified, who fails to make a passing score shall, upon request, be scheduled for the next examination date upon payment of an additional fee of ten (10) dollars.

Section 6. Requirements for Full Certification as an Electrical Inspector: General and One (1) and Two (2) Family. (1) The applicant shall possess the ability to read and write the English language and possess a general educational level satisfactory to perform his duties.

(2) Applicant shall either have had not less than five (5) years of current experience in the installation and/or design, of all types of residential, commercial and industrial wiring systems installed in accordance with the National Electrical Code; or he shall be a registered professional electrical engineer, and shall have been engaged in his profession for not less than three (3) years.

EXCEPTION: In circumstances where an applicant cannot show the precise experience required by this subsection, the applicant may request to appear before the electrical advisory committee to establish his background in electrical construction familiarity through other means. The electrical advisory committee shall review the [such] documentation and approve the applicant under this section if it is satisfied that the level of exposure to electrical construction practices is substantially qualitatively equivalent.

(3) The applicant shall submit a duly notarized application, which shall be supplied by the department on request, wherein all

pertinent personal information and experience shall be stated. Application shall [must] be received by the department at least thirty (30) days prior to the next scheduled electrical advisory committee meeting.

(4) A fee of twenty-five (25) dollars shall accompany the application, consisting of a check or money order payable to the Treasurer, Commonwealth of Kentucky.

(5) Applicant shall provide proof of successful completion of the NCPCCI examination for electrical inspector general or the NCPCCI examination for electrical inspector one (1) and two (2) family.

(6) Following review and approval of the applicant's qualifications and examination results by the electrical advisory committee, the department shall issue certification for the appropriate electrical inspector classification and the inspector shall be authorized to conduct inspections as specified in Section 1(3) of this regulation.

(7) Certificates issued pursuant to this section shall run from July 1 to June 30.

(8) Fully certified inspectors shall [may], upon request, be placed on "inactive" status upon payment of fees and otherwise complying with this regulation. The [Such] "inactive" certificate shall be converted to "active" in order to be authorized to make electrical inspections.

(9) All certified electrical inspectors holding a valid certification under previous law shall be exempt from the testing requirements of this regulation.

Section 7. Renewals of General and One (1) and Two (2) Family Certificates. (1) Certification shall [will] be issued to individuals and not to corporations, partnerships, companies or any other entities.

(2) All electrical inspector certifications, except temporary certificates, shall expire on June 30 every year. The department shall mail to each certified inspector, prior to the date of expiration, a renewal application form and the certification shall be renewed subject to the terms and conditions of this regulation.

(3) A renewal fee in the sum of twenty-five (25) dollars shall be paid by each certified electrical inspector. The [Such] fee shall be paid before June 30 in each succeeding year in order to maintain certification.

Section 8. Duties and Responsibilities of a Certified Electrical Inspector. (1) Each certified electrical inspector shall attend at least one (1) continuing education program each year. These [Such] programs shall be acceptable only if approved by the electrical advisory committee.

(2) All electrical inspections shall be made in compliance with the **edition of the** National Electrical Code, **set forth in** the Kentucky Building Code **(815 KAR 7:025).** [and any amendments to the [such] code as may be adopted by the department.]

(3) In addition to the National Electrical Code, the electrical inspector shall familiarize himself with the applicable building codes or fire safety codes governing buildings in the area where he/she performs inspections, to the extent that it is necessary to determine the occupancy load of a facility.

(4) The electrical inspector shall make a minimum of two (2) inspections.

(a) When an inspector makes a rough-in inspection, he/she shall attach a sticker with his/her signature and certification number on the main service equipment or at some other appropriate location.

(b) When an inspector approves a final inspection, he/she shall attach a sticker to the main service equipment with his signature and certification number, name of the project and location, stating that the system is in compliance with the National Electrical Code. The inspector shall also provide the owner or the owner's agent with a certificate of compliance.

(5) All stickers and certificates of compliance to be used by the electrical inspector shall be issued or approved by the department.

(6) Each electrical inspector shall make and retain for a minimum of three (3) years a complete record of each inspection. These [Such] records shall contain, as a minimum, sufficient information to identify the location of the structure inspected, the date of the inspection, the type of structure, whether residential, commercial, industrial or other, the designation of any required permits and the agency(s) granting same, the size and complexity of the structure, and deficiencies in meeting code requirements and any action required to comply, and any other pertinent information considered necessary to allow for a review of the inspection.

(7) These [Such] records shall be available for examination by any authorized representative of the department upon request.

Section 9. Complaints and Grievances Procedures. (1) Any person who believes that any act or omission of any electrical inspector certified by the commissioner has worked an undue hardship on him as a result of alleged misconduct in the performance of his/her duties, shall [may] file a complaint against the inspector.

(2) All complaints or allegations of misconduct shall be submitted in writing to the commissioner, and shall include the nature of the alleged misconduct, with specific details as to acts, names, dates and witnesses and specify the action desired on the part of the commissioner.

(3) After any investigation, the commissioner may, at his discretion, cause the matter to be heard and a recommendation rendered by the electrical advisory committee, or he may set the matter for public hearing or take any other appropriate action to resolve or correct the matter.

Section 10. Suspension and Revocation of Certification. The commissioner shall [may] revoke, suspend or refuse to renew the certificate of an electrical inspector who is determined by the commissioner, after a departmental hearing, to have:

(1) Engaged as an electrical contractor, worked as an electrician or engaged in any other activity in the electrical industry or has pecuniary or associational interests therein which constitutes a conflict of interest.

(2) Engaged in fraud, deceit or misrepresentation in obtaining certification.

(3) Been guilty of negligence, incompetence,

or misconduct, as set forth by this regulation, in the field of electrical inspection.

(4) Affixed or caused to be affixed a seal of approval of issuing certificates of approval for any electrical installation subject to his/her inspection when he/she has not personally inspected the [such] installation and found it to be satisfactory in accordance with the code.

(5) Operated as an electrical inspector in any locality where a court of competent jurisdiction has adjudged him to be in conflict with state or local laws, ordinances, or regulations.

(6) Knowingly overruled the proper findings of another electrical inspector or attempted to supplant, overrule or otherwise invalidate the judgment of another electrical inspector without first obtaining express written consent from the original inspector.

(7) Maintained inaccurate or inadequate recordkeeping as required by Section 8 of this regulation.

Section 11. Electrical Inspections by State Employed Certified Electrical Inspectors. (1) All state-owned [and state-leased] property including all buildings being constructed by the state under the authority of the Department of Finance shall be inspected by a certified electrical inspector who is an employee of the Department of Housing, Buildings and Construction.

(2) State inspectors shall [may] also inspect, for a fee, wherever a certified electrical inspector has not been made available by the local government.

(3) State employed certified electrical inspectors shall [may] assert jurisdiction for the electrical inspection of any project subject to state plan review under the Kentucky Building Code.

Section 12. Interpretations. Where any provision of the National Electrical Code can be shown to be clearly unreasonable or impractical as applied to a particular installation and if deviation from strict compliance would not create a safety hazard because of a particular use or condition, any person may request to appear before the electrical advisory committee of the Department of Housing, Buildings and Construction. After advice from the committee, the department shall render its decision in the matter and said decision shall be appealable to the Board of Housing, Buildings and Construction where appropriate.

CHARLES A. COTTON, Commissioner
THEODORE T. COLLEY, Secretary
APPROVED BY AGENCY: January 15, 1991
FILED WITH LRC: January 28, 1991 at 3 p.m.

CABINET FOR HUMAN RESOURCES
Office of the Inspector General
(As Amended)

902 KAR 20:290. Nursing home standards for freestanding facilities limited to the care of patients with Alzheimer's or related disorders [Standards for Alzheimer's facilities].

RELATES TO: KRS 216B.010 to 216B.131, 216B.990
STATUTORY AUTHORITY: KRS 216B.042, 216B.071, 216B.105
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 Alzheimer's facilities constructed pursuant to KRS 216B.071.

Section 1. Definitions. (1) "Activities of daily living" means activities of self-help (e.g., being able to feed, bathe and/or dress oneself), communication (e.g., being able to place phone calls, write letters and understanding instructions) and socialization (e.g., being able to shop, being considerate of others, working with others and participating in activities).

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

(3) "Facility" means a nursing home [Alzheimer's] facility constructed pursuant to KRS 216B.071.

(4) "License" means an authorization issued by the Cabinet for Human Resources for the purpose of operating a nursing home and offering nursing home services.

(5) "PRN medications" means medications administered as needed.

(6) "Qualified dietician" or "nutritionist" means[:

(a)] a person certified pursuant to KRS 310.010 or 310.030. [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

(b) [(c)] A person who has a bachelor of science degree in home economics and three (3) years of work experience with a registered dietician.]

[(7) "Protective devices" means devices that are designed to protect a person from falling, to include side rails, safety vest or safety belt.]

(7) [(8)] "Patient [Resident]" means any resident [patient] admitted to an Alzheimer's facility.

(8) [(9)] "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. (1) Facilities constructed and operated pursuant to KRS 216B.071 and this regulation shall provide care to residents with a primary diagnosis of Alzheimer's disease or related disorder.

(2) Facilities constructed pursuant to KRS 216B.071 shall be constructed in accordance with 902 KAR 20:046 and this regulation.

(3) These facilities shall be subject to the provisions of KRS 216.535 to 216.593.

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.

(a) All facilities shall have an administrator who is responsible for the operation of the facility and who shall delegate such responsibility in his absence.

(b) The licensee shall contract for professional and supportive services not available in the facility as dictated by the needs of the patient. The contract shall be in writing.

(3) Administrative records.

(a) The facility shall maintain a permanent, chronological patient registry showing date of admission, name of patient, and date of discharge.

(b) The facility shall require and maintain written recommendations or comments from consultants regarding the program and its development on a per visit basis.

(c) Menu and food purchase records shall be maintained.

(d) A written report of any incident or accident involving a patient (including medication errors or drug reactions), visitor or staff shall be made and signed by the administrator or nursing services supervisor, and any staff member who witnessed the incident. The report shall be filed in an incident file.

(4) Policies. The facility shall establish written policies and procedures that govern all services provided by the facility. The written policies shall include:

(a) Patient care and services to include physician, nursing, pharmaceutical (including medication stop orders policy), and residential services.

(b) Adult and child protection. The facility shall have written policies which assure the reporting of <u>allegations</u> [cases] of abuse, neglect or exploitation of adults and children to the Cabinet for Human Resources pursuant to KRS Chapter 209 and KRS 620.

(c) Use of restraints. The facility shall have a written policy that addresses <u>minimizing</u> the use of restraints and a mechanism for monitoring and controlling their use.

(d) 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.

(5) Patient rights. Patient rights shall be provided for pursuant to KRS 216.510 to 216.525.

(6) Admission.

(a) Patients shall be admitted only upon the referral of a physician. Additionally, the facility shall admit only persons who have a primary diagnosis of Alzheimer's disease <u>or related disorder</u>. 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. Within forty-eight (48) hours after admission the facility shall obtain a medical evaluation from the patient's physician including current medical findings, medical history and physical examination. The medical evaluation may be a copy of the discharge summary or history and physical report from a hospital or long-term care facility, if done within <u>seven (7)</u> [five (5)] days prior to admission.

(c) <u>Upon</u> [Before] admission the patient and a responsible member of his family or <u>legal respresentative</u> [committee] shall be informed in writing of the established policies of the facility including fees, reimbursement, visitation rights during serious illness, visiting hours, type of diets offered and services rendered.

(d) The facility shall provide and maintain a system for identifying each patient's personal property and facilities for safekeeping of his declared valuables. Each patient's clothing and other property shall be reserved for his own use.

(7) 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.

(8) 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 and establish responsibility for notifying the other institution promptly of the impending transfer of a patient and arrange for appropriate and safe transportation.

(b) When a patient's condition exceeds the scope of services of the facility, the patient, upon physician's orders (except in cases of <u>life threatening</u> emergency), shall be transferred promptly to an appropriate facility to meet the patient's needs, or services shall be contracted for from another community resource.

(c) If changes and progress occur which would enable the patient to function in a less structured and restrictive environment, and the less restrictive environment cannot be offered at the facility, the facility shall offer assistance in making arrangements for patients to be transferred to a setting which provides appropriate services.

(d) Except in an emergency, the patient, his next of kin, or guardian, if any, and the attending physician shall be consulted <u>at least thirty (30) days</u> in advance of the transfer or discharge of any patient.

(e) If the patient is transferred, a transfer form shall accompany the patient. The transfer form shall include at least: 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.

(9) 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.

(10) 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 an employment application and a record [a resume] of each employee's training and experience, evidence of current licensure or registration where required by law, health records, records of in-service training and ongoing education, and the employee's name, address and Social Security Number.

(c) Staffing 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. Required overall minimum staffing ratios for direct patient care are as follows:]

[SHIFT	STAFF	:	RESIDENTS
7:00 a.m. - 3:00 p.m. (Day)	1	:	6
3:00 p.m. - 11:00 p.m.	1	:	10
11:00 p.m. - 7:00 a.m.	1	:	10]

2. [3.] When 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. [4.] Responsible staff member shall be on duty and awake at all times to assure prompt, appropriate action in cases of injury, illness, fire or other emergencies.

4. [5.] Although emergency scheduling may require substitution of staff, every effort should be made to provide residents with familiar staff
members in order to minimize resident confusion.

5. [6.] Volunteers shall not be counted to make up minimum staffing requirements.

6. [7.] 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 is 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 description for each level of nursing personnel.

b. Recommending to the administrator the number and levels 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.

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 screening of prospective patients in terms of required nursing services and nursing skills available.

i. Assuring that a written monthly assessment of the patient's general condition is completed.

j. Assuring that a nursing care plan shall be established for each patient and that his plan shall be reviewed and modified as necessary.

k. Assuring that registered nurses, licensed practical nurses, nursing assistants, and certified medication aides [nurses' aides and orderlies] are assigned duties consistent with their training and experience.

l. Assuring that a monthly review of each patient's medications is completed and notifying the physician when changes are appropriate.

7. [8.] Supervising nurse. Nursing care shall be provided by or under the direction of a full-time registered nurse. The supervising nurse 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 staff assignments, and whenever possible accompanying physicians when visiting patients.

8. [9.] Charge nurse. There shall be at least one (1) registered nurse or licensed practical nurse on duty at all times who is responsible for the nursing care of patients during the nurse's tour of duty. When a licensed practical nurse is on duty, a registered nurse shall be on call.

9. [10.] Pharmacist. The facility shall retain a licensed pharmacist on a full-time, part-time or consultant basis to direct pharmaceutical services.

10. [11.] 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 the goals and limits of the therapists' work, and prescribes modalities and frequency of therapy, persons with qualifications other than those described in clause a. of this subparagraph may be assigned duties appropriate to their training and experience.

11. [12.] Dietary. Each facility shall have a full-time person designated by the

administrator, responsible for the total food service operation of the facility and on duty a minimum of thirty-five (35) hours each week.

12. [13.] Each facility shall designate a person for the following areas who will be responsible for:

a. Medical records;

b. Arranging for social services;

c. Developing and implementing the activities program and therapeutic recreation; and

d. Developing and implementing staff training program.

13. [14.] Community family support coordinator. A social worker licensed pursuant to KRS 335.090 or who has two (2) years of social work supervised experience in a health care setting working directly with individuals; or similar professional qualifications shall be utilized whose functions shall include:

a. Evaluation of resident's initial social history on admission;

b. Utilization of community resources;

c. Conducting quarterly family support group meetings; and

d. Identification and utilization of existing Alzheimer's network.

14. [15.] Supportive personnel, consultants, assistants and volunteers shall be supervised and shall function within the policies and procedures of the facility.

(d) Health requirements. No employee contracting an infectious disease shall appear at work until the infection can no longer be transmitted.

(e) Orientation and in-service training. All staff members and consultants shall have documented training in the care and handling of Alzheimer's patients, including at least:

1. Eight (8) hours of orientation to cover the following:

a. Facility Alzheimer's policies;

b. Etiology and treatment of dementias;

c. Stages of Alzheimer's disease;

d. Behavior management; and

e. Communication.

f. Resident's rights.

2. Quarterly continuing education is required, six (6) hours of which shall be in Alzheimer's disease or related disorders.

(11) 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 by a physician 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 long-term care facility if done within seven (7) [five (5)] days prior to admission.)

3. The physician's dated and signed orders for medication, diet, and therapeutic services.

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, dosage, administration method, name of prescribing physician and name of person who administered the medication.

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, mode and frequency of PRN medications administered, condition necessitating administration of PRN medication, reaction following PRN medication, visits by physician and phone calls to the physician, medically prescribed diets and preventive maintenance or rehabilitative nursing measures.

8. Written assessment of the patient's monthly general condition.

9. Reports of dental, laboratory and x-ray services (if applicable).

10. Changes in patient's response to the activity and therapeutic recreation program.

11. A discharge summary, signed and dated by the attending physician within one (1) month of discharge from the facility.

(b) 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.

Section 4. Provision of Services. (1) Physician services.

(a) The health care of every patient shall be under the 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 sixty (60) days following admission. Subsequent to the 60th day following admission, the patients shall be evaluated by a physician every sixty (60) days unless justified and documented by the attending physician in the patient's medical record. There shall be evidence in the patient's medical record of the physician visits to the patient at medically 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 and 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 or licensed practical nurses, aides, assistants, and certified medication 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;

4. 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 or more often if necessary;

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 carry out prescribed physical therapy exercises between visits of the physical therapists.

(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) Comprehensive assessment of resident needs. Nursing personnel shall make a comprehensive assessment of a resident's needs which describes the resident's capability to perform daily life functions and significant impairments in functional capacity:

1. The comprehensive assessment must include at least the following information:

a. Medically defines conditions and prior medical history;

b. Medical status measurement;

c. Functional status;

d. Sensory and physical impairment;

e. Nutritional status and requirements;

f. Special treatments or procedures;

g. Psychosocial status;

h. Dental condition;

i. Activities potential;

j. Cognitive status; and

k. Drug therapy.

2. Assessments must be conducted no later than fourteen (14) [four (4)] days after the date of admission and promptly after a significant change in the resident's physical or mental condition.

3. Each assessment must be conducted or coordinated by a registered nurse who signs and certifies the completion of the assessment.

(3) Comprehensive assessments and care plans.

(a) Comprehensive assessments.

1. The facility shall make a comprehensive assessment of a resident's needs, which describes the resident's capability to perform daily life functions and significant impairments in functional capacity.

2. The comprehensive assessment shall include at least the following information:

a. Medically defined conditions and prior medical history;

b. Medical status measurement;

c. Functional status;

d. Sensory and physical impairments;

e. Nutritional status and requirements;

f. Special treatments or procedures;

g. Psychosocial status;

h. Discharge potential;

i. Dental condition;

j. Activities potential;

k. Rehabilitation potential;

l. Cognitive status; and

m. Drug therapy.

3. Frequency. Assessments shall be conducted:

a. No later than fourteen (14) days after the date of admission;

b. Promptly after a significant change in the resident's physical or mental condition; and

c. In no case less often than once every twelve (12) months.

4. Review of assessments. The nursing facility shall examine each resident no less than once every three (3) months, and as appropriate, revise the resident's assessment to assure the continued accuracy of the assessment.

5. Use. The results of the assessment are used to develop, review, and revise the resident's comprehensive plan of care, under paragraph (4) of this section.

[6. Coordination. The facility shall coordinate assessments with the Kentucky required preadmission screening and annual review program to the maximum extent practicable to avoid duplicative testing and effort.]

(b) Accuracy of assessments.

1. Coordination. Each assessment shall be conducted or coordinated by a registered nurse who signs and certifies the completion of the assessment with the appropriate participation of health professionals.

2. Certification. Each individual who completes a portion of the assessment shall sign and certify the accuracy of that portion of the assessment.

(c) Comprehensive care plans.

1. The facility shall develop a comprehensive care plan for each resident that includes measurable objectives and timetables to meet a resident's medical, nursing and psychosocial needs that are identified in the comprehensive assessment.

2. A comprehensive care plan shall be:

a. Developed within seven (7) days after completion of the comprehensive assessment;

b. Prepared by an interdisciplinary team, that

includes the attending physician, a registered nurse with responsibility for the resident, and other appropriate staff in disciplines as determined by the resident's needs, and with the participation of the resident, the resident's family or legal representative, to the extent practicable; and

c. Periodically reviewed and revised by a team of qualified persons after each assessment.

3. The services provided or arranged by the facility shall:

a. Meet professional standards of quality; and

b. Be provided by qualified persons in accordance with each resident's written plan of care.

(d) Discharge summary. When the facility anticipates discharge, a resident shall have a discharge summary that includes:

1. A recapitulation of the resident's stay;

2. A final summary of the resident's status to include items in paragraph (2)(b) of this subsection, at the time of the discharge that shall be available for release to authorized persons and agencies, with the consent of the resident or legal representative; and

3. A post-discharge plan of care that developed with the participation of the resident and his or her family, which will assist the resident to adjust to his or her new living environment.

(4) Specialized rehabilitative services.

(a) Rehabilitative services shall be provided upon written order of the physician which indicates anticipated goals and prescribes specific modalities to be used and frequency of physical, speech and occupational therapy services. These services may be contracted for from another community resource.

(b) If therapy services are provided they 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 includes:

a. Service 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, handrails, wheelchairs, walkers, walkerettes, crutches and canes. The therapists shall advise the administrator concerning the purchase, rental, storage and maintenance of equipment and supplies.

(5) 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.

(6) Pharmaceutical services.

(a) The facility shall provide appropriate methods and procedures for obtaining, dispensing, and administering drugs and biologicals, developed with the advice of a licensed pharmacist or a pharmaceutical advisory committee which includes one (1) or more licensed pharmacists.

(b) If the facility has a pharmacy department, a licensed pharmacist shall administer the department.

(c) If the facility does not have a pharmacy department, it shall have provision for promptly 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 <u>fourteen (14) days</u> [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 on stop orders. A registered nurse or pharmacist shall review each patient's medication profile at least monthly. The prescribing physician shall review the patient's medical profile at least every two (2) months. 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 source. The administration of oral and topical medicines by certified medicine <u>aides</u> [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 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 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 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.

4. 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.

5. 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.] There shall be no PRN orders for restraints. Understanding that measures to prevent wandering may infringe on patient rights, care shall be exercised in the use of physical or mechanical devices or chemical restraints.

a. [(i)] Restraints shall not be used as punishment, as discipline, as a convenience for the staff, or when not required to treat the resident's medical symptoms, or as a substitute for staff.

b. [(ii)] Physical or mechanical restraints that require lock and key shall not be used. 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. During the patient's normal waking hours, the patient must be excercised during release periods. 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 comfortable and easily removed in case of an emergency.

(c) [(iii)] The specific purpose and time-limited order for any restraint shall be written and reviewed according to facility policy. The frequency of such renewal shall not exceed sixty (60) days.

[b. 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.]

6. Infection control and communicable diseases.

a. There shall be written infection control policies, which are consistent with the Center 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, broken, or otherwise manipulated by hand.

(iii) The containers for 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), rebella, 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.

(7) 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.

(8) 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.

(9) 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.

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. Subject to the requirements of KRS 216B.071, 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.

(10) 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 help with behavior management]. Provision shall be made for activities which must be appropriate for the needs and interests of each resident, taking into consideration his or her specific impairment, [and] state of disease. Activities programs shall be available to all residents and shall be planned and documented in the patient's interdisciplinary comprehensive assessment.

(a) The activity leader shall have specialized educational preparation concerning the care of an Alzheimer's patient, and 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) Patient's 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.

(11) Transportation.

(a) If transportation of patients is provided by the facility to community agencies or other activities, the following shall apply:

1. Special provision shall be made for patients who use wheelchairs.

2. An escort or assistant to the driver shall be provided in transporting patients to and from the facility if necessary for the the patient's safety.

(b) The facility shall arrange for appropriate transportation in case of medical emergencies.

(12) 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 approriate 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 conferences.

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 leftover 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 over-bed 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 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 patient shall not be used by another until it has been laundered or dry cleaned.

3. Soiled linen shall be sorted and laundered in the soiled linen room in the laundry area. Handwashing facilities with hot and cold water, soap dispenser and paper towels shall be provided in the laundry area.

4. Clean linen shall be sorted, dried, ironed, folded, transported, stored and distributed in a sanitary manner.

[5. Clean linen shall be stored in clean linen closets on each floor, close to the nurses' station.]

5. [6.] Personal laundry of patients or staff shall be collected, transported, sorted, washed and dried in a sanitary manner, separate from bed linens.

6. [7.] 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.

7. [8.] 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.

Section 5. Alzheimer's Facility Requirements. (1) The care of residents with Alzheimer's disease and other cognitive disorders require increased security and visual access. Measures to protect the residents from harm and to prevent them from leaving designated areas without supervision shall include frequent in-person observation of each resident and may also include the use of wide angle mirrors [and] closed-circuit television monitors, and alarm systems.

(2) In addition to the required facility specifications in 902 KAR 20:046, the following shall be provided:

(a) Control doors, if used for security of the residents, shall be forty-four (44) inches in width each leaf, and swing in opposite directions. A latch or other fastening device on a door shall be provided with a knob, handle, panic bar, or other simple type of releasing device, the method of operation of which is obvious, even in darkness.

(b) Locking devices may be used on the control doors if the following criteria are met.

1. The locking device, which shall not be a keylock device, shall be electronic and shall be released when the following occurs:

a. Upon activation of the fire alarm or sprinkler systems;

b. Power failure to the facility; and

c. By pressing a button located at the main staff station and at the monitoring station.

2. Key pad or buttons may be located at the control doors for routine use by staff or service.

(3) Access to outdoor areas shall be provided and such areas shall be enclosed by walls or fencing that do not present a hazard.

(4) Any security measures taken to provide for the safety of wandering patients shall be as unobtrusive as possible.

CLAY CESSNA, Inspector General
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: March 5, 1991
FILED WITH LRC: March 8, 1991 at 11 a.m.

CABINET FOR HUMAN RESOURCES
Office of Inspector General
(As Amended)

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

RELATES TO: KRS 216B.010 to 216B.130, 216B.990
STATUTORY AUTHORITY: KRS 216B.042 and 216B.105
NECESSITY AND FUNCTION: KRS 216B.042 and 216B.105 mandate that the Kentucky Cabinet for Human Resources regulate health facilities and health services. This regulation provides licensure standards for the operation and services of a nursing facility.

Section 1. Definitions. (1) "Facility" means a nursing facility licensed pursuant to this regulation and 902 KAR 20:008.

(2) "Nurse aide" means any unlicensed individual providing nursing or nursing related services, employed by the facility, to residents in a facility except unpaid volunteers.

(3) "Licensure agency" means the Division for Licensing and Regulation in the Office of Inspector General, Cabinet for Human Resources.

[(4) "Responsible party" means the person who assists or signs the resident into the facility and the resident's immediate family.]

Section 2. Scope of Operations. (1) A nursing facility shall be subject to the provisions of Kentucky's nursing home reform laws, KRS Chapter 216.

(2) A nursing facility shall have written policies which assure the reporting of cases of abuse, neglect or exploitation of adults and children to the cabinet pursuant to KRS Chapters 209 and 620.

(3 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.

Section 3. Resident Rights. The resident has a right to a dignified existence, self-determination and communication with and access to persons and services inside and outside the facility. A facility must protect and promote the rights of each resident, including each of the following rights:

(1) Exercise of rights.

(a) The resident shall have the right to exercise his or her rights as a resident of the facility and as a citizen or resident of the United States.

(b) The resident shall have the right to be free of interference, coercion, discrimination, or reprisal from the facility in exercising his or her rights.

(c) In the case of a resident adjudged incompetent under the laws of a state by a court of competent jurisdiction, the rights of the resident shall be exercised by the person appointed under state law to act on the resident's behalf.

(2) Notice of rights and services.

(a) The facility shall inform the resident both orally and in writing in a language that the resident understands of his or her rights and all rules and regulations governing resident conduct and responsibilities during the stay in the facility. Such notification shall be made prior to or upon admission and during the resident's stay. Receipt of such information, and any amendments to it, shall be documented in writing.

(b) The resident shall have the right to inspect and purchase photocopies of all records pertaining to the resident, upon written request and forty-eight (48) hours notice to the facility;

(c) The resident shall have the right to be fully informed in language that he or she can understand of his or her total health status, including but not limited to, his or her medical condition;

(d) The resident shall have the right to refuse treatment, and to refuse to participate in experimental research; and

(e) The facility shall inform each resident before, or at the time of admission, and periodically during the resident's stay, of services available in the facility and of charges for those services, including any charges for services not covered by third party payors or the facility's per diem rate.

(f) The facility shall furnish a written description of legal rights which includes:

1. A description of the manner of protecting personal funds, under paragraph (3) of this section; and

2. A statement that the resident may file a complaint with the licensure agency concerning resident abuse, neglect, and misappropriation of resident property in the facility.

(g) The facility shall inform each resident of the name, specialty and way of contacting the physician responsible for his or her care.

(h) The facility shall have available a manual and contact person to [prominently display in the facility written information, and] provide [to] residents and potential residents oral and written information about how to apply for and use third party benefits, and how to receive refunds for previous payments covered by such benefits.

(i) Notification of changes.

1. Except in a medical emergency or when a resident is incompetent, a facility shall consult with the resident immediately and notify the resident's physician, and if known, [the responsible party []the resident's legal representative or interested family member[]] within twenty-four (24) hours when there is:

a. An accident involving the resident which results in injury;

b. A significant change in the resident's physical, mental, or psychosocial status;

c. A need to alter treatment significantly; or

d. A decision to transfer or discharge the resident from the facility as specified in

Section 4(1) of this regulation.

2. The facility shall also promptly notify the resident and, if known, [the responsible party []the resident's legal representative or interested family member[]] when there is:

a. A change in room or roommate assignment as specified in Section 6(5)(b) of this regulation; or

b. A change in resident rights under federal or state law or regulations as specified in subsection (2)(a) of this section.

3. The facility shall record and periodically update the address and phone number of the [responsible party []resident's legal representative or interested family member[]].

(3) Protection of resident funds.

(a) The resident shall have the right to manage his or her financial affairs and the facility shall not require residents to deposit their personal funds with the facility.

(b) Management of personal funds. Upon written authorization of a resident, [or responsible party] the facility shall hold, safeguard, manage and account for the personal funds of the resident deposited with the facility, as specified in paragraphs (c) through (g) of this subsection.

(c) Deposit of funds.

1. Funds in excess of fifty (50) dollars. The facility shall deposit any resident's personal funds in excess of fifty (50) dollars in an interest bearing account (or accounts) that is separate from any of the facility's operating accounts, and that credits all interest earned on the resident's account to his or her account.

2. Funds less than fifty (50) dollars. The facility shall maintain a resident's personal funds that do not exceed fifty (50) dollars in a noninterest bearing account or petty cash fund.

(d) Accounting and records. The facility shall establish and maintain a system that assures a full and complete and separate accounting, according to generally accepted accounting principles, of each resident's personal funds entrusted to the facility on the resident's behalf.

1. The system shall preclude any commingling of resident funds with facility funds or with the funds of any person other than another resident.

2. The individual financial record shall be available on request to the resident or his or her legal representative.

(e) Conveyance upon death. Upon the death of a resident with a personal fund deposited with the facility, the facility shall convey promptly the resident's funds, and a final accounting of those funds, to the individual administering the resident's estate[, or responsible party].

(f) Assurance of financial security. The facility shall purchase a surety bond, or provide self-insurance to assure the security of all personal funds of residents deposited with the facility.

(g) Limitation on charges to personal funds. The facility shall not impose a charge against the personal funds of a resident for any item or service for which payment is made by a third party payor.

(4) Free choice. The resident shall have the right to:

(a) Choose a personal attending physician;

(b) Be fully informed in advance about care and treatment of any changes in that care or treatment that may affect the resident's well-being; and

(c) Unless adjudged incompetent or otherwise found to be incapacitated under the laws of the state, participate in planning care and treatment or changes in care and treatment.

(5) Privacy and confidentiality of personal and clinical records. The resident shall have the right to personal privacy and confidentiality of his personal and clinical records.

(a) Personal privacy includes accommodations, medical treatment, written and telephone communications, personal care, visits, and meetings of family and resident groups, but this does not require the facility to provide a private room;

(b) Except as provided in paragraph (c) of this subsection, the resident may approve or refuse the release of personal and clinical records to any individual outside the facility;

(c) The resident's right to refuse release of personal and clinical records shall not apply when:

1. The resident is transferred to another health care institution; or

2. Record release is required by law or third-party payment contract.

(6) Grievances. A resident shall have the right to:

a. Voice grievances with respect to treatment or care that is, or fails to be furnished, without discrimination or reprisal for voicing the grievances; and

b. Prompt efforts by the facility to resolve grievances the resident may have, including those with respect to the behavior of other residents.

(7) Examination of survey results. A resident shall have the right to:

(a) Examine the results of the most recent survey of the facility conducted by federal or state surveyors and any plan of correction in effect with respect to the facility. The results shall be posted by the facility in a place readily accessible to residents; and

(b) Receive information from agencies acting as client advocates, and be afforded the opportunity to contact these agencies.

(8) Work. The resident shall have the right to:

(a) Refuse to perform services for the facility;

(b) Perform services for the facility, if he or she chooses, when:

1. The facility documents the need or desire for work in the plan of care;

2. The plan specifies the nature of the services performed and whether the services are voluntary or paid;

3. Compensation for paid services is at or above prevailing rates; and

4. The resident agrees to the work arrangements described in the plan of care.

(9) The resident shall have the right to privacy in written communications, including the right to:

(a) Send and receive mail promptly that is unopened; and

(b) Have access to stationery, postage and writing implements at the resident's own expense.

(10) Access and visitation rights.

(a) The resident shall have the right and the facility shall provide immediate access to any resident by the following:

1. Any representative of the federal

government;
2. Any representative of the state;
3. The resident's individual physician;
4. Any representative of the Kentucky long-term care ombudsman program;
5. The agency responsible for the protection and advocacy system for developmentally disabled individuals and for mentally ill individuals [The Kentucky Department for Public Advocacy];
6. Subject to the resident's right to deny or withdraw consent at any time, immediate family or other relatives of the resident; and
7. Subject to reasonable restrictions and the resident's right to deny or withdraw consent at any time, others who are visiting with the consent of the resident.

(b) The facility shall provide reasonable access to any resident by any entity or individual that provides health, social, legal, or other services to the resident, subject to the resident's right to deny or withdraw consent at any time.

(c) The facility shall allow representatives of the ombudsman, described in paragraph (a)4 of this subsection, to examine a resident's clinical records with the permission of the resident or the resident's legal representative, [or responsible party] and consistent with state law.

(11) Telephone. The resident shall have the right to have regular access to the private use of a telephone.

(12) Personal property. The resident shall have the right to retain and use personal possessions, including some furnishings, and appropriate clothing, as space permits, unless to do so would infringe upon the rights or health and safety of other residents.

(13) Married couples. The resident shall have the right to share a room with his or her spouse when married residents live in the same facility and both spouses consent to the arrangement.

Section 4. Admission, Transfer and Discharge Rights. (1) Transfer and discharge.

(a) Transfer and discharge requirements. The facility shall permit each resident to remain in the facility, and not transfer or discharge the resident from the facility unless:
1. The transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met in the facility;
2. The transfer or discharge is appropriate because the resident's health has improved sufficiently so the resident no longer needs the services provided by the facility;
3. The safety of individuals in the facility is immediately endangered;
4. The health of individuals in the facility would otherwise be immediately endangered;
5. The resident has failed, after reasonable and appropriate notice, to pay for a stay at the facility; or
6. The facility ceases to operate.

(b) Documentation. When the facility transfers or discharges a resident under any of the circumstances specified in paragraphs (a)1 through 5 of this subsection, the resident's clinical record must be documented. The documentation must be made by:
1. The resident's physician when transfer or discharge is necessary under paragraph (a)1 or 2 of this subsection; and
2. A physician when transfer or discharge is necessary under paragraph (a)4 of this subsection.

(c) Notice before transfer. Before a facility transfers or discharges a resident, the facility shall:
1. Notify the resident and, if known, a family member or legal representative of the resident of the transfer or discharge and the reasons;
2. Record the reasons in the resident's clinical record; and
3. Include in the notice the items described in paragraph (e) of this subsection.

(d) Timing of the notice. Except when specified in paragraph (d)2 of this subsection, the notice of transfer or discharge required under paragraph (c) of this subsection must be made by the facility at least thirty (30) days before the resident is transferred or discharged.
2. Notice may be made as soon as practicable before transfer or discharge when:
a. The safety of individuals in the facility would be endangered, under paragraph (a)3 of this subsection;
b. The health of individuals in the facility would be endangered, under paragraph (a)4 of this subsection;
c. The resident's health improves sufficiently to allow a more immediate transfer or discharge, under paragraph (a)2 of this subsection;
d. An immediate transfer or discharge is required by the resident's urgent medical needs, under paragraph (a)1 of this subsection;
e. A resident has not resided in the facility for thirty (30) days.

(e) Contents of the notice. For nursing facilities, the written notice specified in paragraph (c) of this subsection shall include the following:
1. A statement that the resident has the right to appeal the action to the state agency designated by the state for such appeals.
2. The name, address and telephone number of the state long-term care ombudsman;
3. For nursing facility residents with developmental disabilities, the mailing address and telephone number of the agency responsible for the protection and advocacy of developmentally disabled individuals;
4. For nursing facility residents who are mentally ill, the mailing address and telephone number of the agency responsible for the protection and advocacy of mentally ill individuals;
5. The reason for the transfer or discharge;
6. The effective date of transfer or discharge; and
7. The location to which the resident is transferred or discharged.

(f) Orientation for transfer or discharge. A facility shall provide sufficient preparation and orientation to residents to ensure safe and orderly transfer or discharge from the facility.

(2) Notice of bed-hold policy and readmission.

(a) Notice before transfer. Before a facility transfers a resident to a hospital or allows a resident to go on therapeutic leave, the facility shall provide written information to the resident and family member or legal representative that specifies the duration of the bed-hold policy if any, during which the resident is permitted to return and resume residence in the facility; and

(b) Notice upon transfer. At the time of transfer of a resident to a hospital or for therapeutic leave, a nursing facility shall provide written notice to the resident and a

family member or legal representative, which specifies the duration of the bed-hold policy described in paragraph (a) of this subsection.

(c) Permitting resident to return to facility. A nursing facility shall establish and follow a written policy under which a resident whose hospitalization or therapeutic leave exceeds the bed hold period, is readmitted to the facility immediately upon the first availability of a bed in a semiprivate room if the resident:

1. Requires the services provided by the facility; and

2. Is eligible for nursing facility services.

(3) Equal access to quality care. A facility shall establish and maintain identical policies and practices regarding transfer, discharge, and the provision of services for all individuals regardless of source of payment;

(4) Admissions policy.

(a) The facility shall:

1. Not require a third party guarantee of payment to the facility as a condition of admission, or expedited admission, or continued stay in the facility;

2. Not charge, solicit, accept, or receive, in addition to any amount otherwise required to be paid for services, any gift, money, donation or other consideration as a precondition of admission, expedited admission or continued stay in the facility.

(b) A facility shall:

1. Not require residents or potential residents to waive their rights to Medicare or Medicaid;

2. Not require oral or written assurance that residents or potential residents are not eligible for, or will not apply for, Medicare or Medicaid benefits.

(c) A facility may require an individual who has legal access to a resident's income or resources available to pay for facility care, to sign a contract, without incurring personal financial liability, to provide facility payment from the resident's income or resources.

(d) A nursing facility may charge a resident for items and services the resident has requested and received, and that are not covered in the facility's basic per diem rate.

(e) A nursing facility may solicit, accept or receive a charitable, religious or philanthropic contribution from an organization or from a person unrelated to the resident, or potential resident, but only to the extent that the contribution is not a condition of admission, expedited admission, or continued stay in the facility.

Section 5. Resident Behavior and Facility Practices. (1) Restraints. The resident shall have the right to be free from any physical restraints imposed or psychoactive drug administered for purposes of discipline or convenience, and not required to treat the resident's medical symptoms.

(2) Abuse. The resident shall have the right to be free from verbal sexual, physical or mental abuse, corporal punishment, and involuntary seclusion.

(3) Staff treatment of residents. The facility shall develop and implement written policies and procedures that prohibit mistreatment, neglect or abuse of residents.

(a) The facility shall:

1. Not use verbal, mental, sexual, or physical abuse, including corporal punishment, or involuntary seclusion; and

2. Not employ individuals who have been convicted of abusing, neglecting or mistreating individuals.

(b) The facility shall have evidence that all alleged violations are thoroughly investigated, and shall prevent further potential abuse while the investigation is in progress.

(c) The results of all investigations shall be reported to the administrator or his designated representative within five (5) working days or to other officials in accordance with applicable provisions of KRS Chapter 209 or 620, if the alleged violation is verified appropriate corrective action is taken.

(d) The facility shall document alleged violations involving mistreatment, neglect, or abuse, including injuries of unknown source, are reported immediately to the administrator of the facility or to other officials in accordance with KRS Chapters 209 and 620.

(e) The facility shall have evidence that all alleged violations are thoroughly investigated, and shall prevent further potential abuse while the investigation is in progress.

Section 6. Quality of Life. A facility shall care for its residents in a manner and in an environment that promotes maintenance or enhancement of each resident's quality of life.

(1) Dignity. The facility shall promote care for residents in a manner and in an environment that maintains or enhances each resident's dignity and respect in full recognition of his or her individuality.

(2) Self-determination and participation. The resident shall have the right to:

(a) Choose activities, schedules, and health care consistent with his or her interests, assessments and plans of care:

(b) Interact with members of the community both inside and outside the facility; and

(c) Make choices about aspects of his or her life in the facility that are significant to the resident.

(3) Participation in resident and family groups.

(a) A resident shall have the right to organize and participate in resident groups in the facility;

(b) A resident's family shall have the right to meet in the facility with the families of other residents in the facility;

(c) The facility shall provide a resident or family group, if one exists, with private space;

(d) Staff or visitors may attend meetings at the group's invitation;

(e) The facility shall provide a designated staff person responsible for providing assistance and responding to written requests that result from group meetings;

(f) When a resident or family group exists, the facility shall listen to the views and act upon the grievances and recommendations of residents and families concerning proposed policy and operational decisions affecting resident care and life in the facility.

(4) Accommodation of needs. A resident shall have the right to:

(a) Reside and receive services in the facility with reasonable accommodation of individual needs and preferences, except when the health or safety of the individual or other residents would be endangered; and

(b) Receive notice before the resident's room

or roommate in the facility is changed.

(5) Activities.

(a) The facility shall provide for an ongoing program of activities designed to meet, in accordance with the comprehensive assessment, the interests and the physical, mental and psychosocial well-being of each resident.

(b) The activities program shall be directed by a qualified therapeutic recreation specialist who is:

1. Eligible for certification as a therapeutic recreation specialist by a recognized accrediting body; or

2. Has two (2) years of experience in a social or recreational program within the last five (5) years, one (1) of which was full time in a patient activities program in a health care setting; or

3. Is a qualified occupational therapist or occupational therapy assistant; or

4. Has completed a training course approved by the state.

(6) Social services.

(a) The facility shall provide medically-related social services to attain or maintain the highest practicable physical, mental or psychosocial well-being of each resident.

(b) A facility with more than 120 beds shall employ a full-time qualified social worker, or an individual with a bachelor's degree in a related field.

(c) Qualifications of social worker. A qualified social worker is an individual who is licensed pursuant to KRS 335.090, [or has two (2) years experience in social work] or a degree in a related field.

(7) Environment.

(a) The facility shall provide:

1. A safe, clean, comfortable and homelike environment, allowing the resident to use his or her personal belongings to the extent possible;

2. Housekeeping and maintenance services necessary to maintain a sanitary, orderly and comfortable interior;

3. Clean bed and bath linens that are in good condition;

4. Private closet space in each resident room.

5. Adequate and comfortable lighting levels in all areas; comfortable and safe temperature levels.

6. For the maintenance of comfortable sound levels.

(b) Infection control and communicable diseases.

1. The facility shall establish policies which are consistent with the Center for Disease Control guidelines, and address the prevention of disease transmission to and from patients, visitors and employees, including:

a. Universal blood and body fluid precautions;

b. Precautions for infections which can be transmitted by the airborne route; and

c. Work restrictions for employees with infectious diseases.

d. The cleaning, disinfection, and sterilization methods used for equipment and the environment.

2. The facility shall establish an infection control program which:

a. Investigates, controls and prevents infections in the facility;

b. Decides what procedures, such as isolation, should be applied to an individual resident; and

c. Maintains a record of incidents and corrective actions related to infections.

d. Addresses the prevention of the spread of infection.

(i) When the infection control program determines that a resident needs isolation to prevent the spread of infection, the facility shall isolate the resident.

(ii)The facility shall prohibit employees with a communicable disease or infected skin lesions from direct contact with residents or their food, if direct contact will transmit the disease.

(iii) The facility shall require staff to wash their hands after each direct resident contact for which handwashing is indicated by accepted professional practice.

3. 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.

4. Sharp wastes.

a. 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.

b. Needles shall not be recapped by hand, purposely bent or broken, or otherwise manipulated by hand.

c. 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.

5. Disposable waste.

a. 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.

b. The facility shall establish specific written policies regarding handling and disposal of all wastes.

c. 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.

d. 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.

6. 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.

7. A facility may admit a (noninfectious) tuberculosis patient under continuing medical supervision for his tuberculosis disease.

8. Patients with active tuberculosis may be admitted to the facility whose isolation facilities and procedures have been specifically approved by the cabinet.

9. 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.

(8) Participation in other activities. A resident shall have the right to participate in social, religious, and community activities that do not interfere with the rights of other residents in the facility.

Section 7. Resident Assessment. The facility shall conduct initially and periodically a comprehensive, accurate, standardized, reproducible assessment of each resident's functional capacity.

(1) Admission orders. At the time each resident is admitted, the facility shall have physician orders for the resident's immediate care.

(2) Comprehensive assessments.

(a) The facility shall make a comprehensive assessment of a resident's needs, which describes the resident's capability to perform daily life functions and significant impairments in functional capacity.

(b) The comprehensive assessment shall include at least the following information:

1. Medically defined conditions and prior medical history;
2. Medical status measurement;
3. Functional status;
4. Sensory and physical impairments;
5. Nutritional status and requirements;
6. Special treatments or procedures;
7. Psychosocial status;
8. Discharge potential;
9. Dental condition;
10. Activities potential;
11. Rehabilitation potential;
12. Cognitive status; and
13. Drug therapy.

(c) Frequency. Assessments shall be conducted:

1. No later than fourteen (14) days after the date of admission;
2. For current residents of a facility, not later than October 1, 1991;
3. Promptly after a significant change in the resident's physical or mental condition; and
4. In no case less often than once every twelve (12) months.

(d) Review of assessments. The nursing facility shall examine each resident no less than once every three (3) months, and as appropriate, revise the resident's assessment to assure the continued accuracy of the assessment.

(e) Use. The results of the assessment are used to develop, review, and revise the resident's comprehensive plan of care, under subsection (4) of this section.

(f) Coordination. The facility shall coordinate assessments with the Kentucky required preadmission screening and annual review program to the maximum extent practicable to avoid duplicative testing and effort.

(3) Accuracy of assessments.

(a) Coordination. Each assessment shall be conducted or coordinated by a registered nurse who signs and certifies the completion of the assessment with the appropriate participation of health professionals.

(b) Certification. Each individual who completes a portion of the assessment shall sign and certify the accuracy of that portion of the assessment.

(4) Comprehensive care plans.

(a) The facility shall develop a comprehensive care plan for each resident that includes measurable objectives and timetables to meet a resident's medical, nursing and psychosocial needs that are identified in the comprehensive assessment.

(b) A comprehensive care plan shall be:

1. Developed within seven (7) days after completion of the comprehensive assessment;
2. Prepared by an interdisciplinary team, that includes the attending physician, a registered nurse with responsibility for the resident, and other appropriate staff in disciplines as determined by the resident's needs, and with the participation of the resident, the resident's family or legal representative, to the extent practicable; and
3. Periodically reviewed and revised by a team of qualified persons after each assessment.

(c) The services provided or arranged by the facility shall:

1. Meet professional standards of quality; and
2. Be provided by qualified persons in accordance with each resident's written plan of care.

(5) Discharge summary. When the facility anticipates discharge, a resident shall have a discharge summary that includes:

(a) A recapitulation of the resident's stay;

(b) A final summary of the resident's status to include items in subsection (2)(b) of this section, at the time of the discharge that shall be available for release to authorized persons and agencies, with the consent of the resident or legal representative; and

(c) A postdischarge plan of care that developed with the participation of the resident and [<u>the resident's responsible party</u>]his or her family,[] which will assist the resident to adjust to his or her new living environment.

(6) Preadmission screening for mentally ill individuals and individuals with mental retardation. A nursing facility shall not admit any new resident in conflict with the Kentucky preadmission screening and annual review program.

Section 8. Quality of Care. Each resident shall receive the necessary nursing, medical and psychosocial services to attain and maintain the highest possible mental and physical functional status, as defined by the comprehensive assessment and plan of care. Each resident shall receive services and the facility must provide the necessary care and services to attain or maintain the highest practicable physical, mental, and psychosocial well-being, in accordance with the comprehensive assessment and plan of care.

(1) Activities of daily living. Based on the comprehensive assessment of a resident, the facility shall ensure:

(a) A resident's abilities in activities of daily living do not diminish unless circumstances of the individual's clinical condition demonstrate that diminution was unavoidable. This includes the resident's ability to:

1. Bathe, dress and groom;
2. Transfer and ambulate;
3. Toilet;
4. Eat; and
5. To use speech, language or other functional communication systems.

(b) A resident is given the appropriate treatment and services to maintain or improve his or her abilities specified in paragraph (a) of this subsection; and

(c) A resident who is unable to carry out activities of daily living receives the necessary services to maintain good nutrition, grooming, and personal and oral hygiene.

(2) Vision and hearing. To ensure that residents receive proper treatment and assistive devices to maintain vision and hearing abilities, the facility shall, if necessary, assist the resident:

(a) In making appointments; and

(b) By arranging for transportation to and from the office of a medical practitioner specializing in the treatment of vision or hearing impairment of the office of a professional specializing in the provision of vision or hearing assistive devices.

(3) Pressure sores. Based on the comprehensive assessment of a resident, the facility shall ensure that:

(a) A resident who enters the facility without pressure sores does not develop pressure sores unless the individual's clinical condition demonstrates that they were unavoidable; and

(b) A resident having pressure sores receives necessary treatment and services to promote healing, prevent infection and prevent new sores from developing.

(4) Urinary incontinence. Based on the resident's comprehensive assessment, the facility shall ensure that:

(a) A resident who is incontinent of bladder receives the appropriate treatment and services to restore as much normal bladder functioning as possible;

(b) A resident who enters the facility without an in-dwelling catheter is not catheterized unless the resident's clinical condition demonstrates that catheterization was necessary; and

(c) A resident who is incontinent of bladder receives appropriate treatment and services to prevent urinary tract infections and to restore as much normal bladder function as possible.

(5) Range of motion. Based on the comprehensive assessment of a resident, the facility shall ensure that:

(a) A resident who enters the facility without a limited range of motion does not experience reduction in range of motion unless the resident's clinical condition demonstrates that a reduction in range of motion is unavoidable; and

(b) A resident with a limited range of motion and/or receives appropriate treatment and services to increase range of motion to prevent further decrease in range of motion.

(6) Psychosocial functioning. Based on the comprehensive assessment of a resident, the facility shall ensure that:

(a) A resident who displays psychosocial adjustment difficulty, receives appropriate treatment and services to achieve as much remotivation and reorientation as possible; and

(b) A resident whose assessment did not reveal a psychosocial adjustment difficulty does not display a pattern of decreased social interaction and/or increased withdrawn, angry, or depressive behaviors, unless the resident's clinical condition demonstrates that such a pattern was unavoidable.

(7) Accidents. The facility shall ensure that:

(a) The resident environment remains as free of accident hazards as is possible; and

(b) Each resident receives adequate supervision and assistive devices to prevent accidents.

(8) Nutrition. Based on a resident's comprehensive assessment, the facility shall ensure that a resident:

(a) Maintains acceptable parameters of nutritional status, such as body weight and protein levels, unless the resident's clinical condition demonstrates that this is not possible; and

(b) Receives a therapeutic diet when there is a nutritional problem.

(9) Special needs. The facility shall ensure that residents receive proper treatment and care for the following special services:

(a) Injections;

(b) Parenteral and enteral fluids;

(c) Colostomy, ureterostomy or ileostomy care;

(d) Tracheostomy care;

(e) Tracheal suctioning;

(f) Respiratory care;

(g) Podiatric care; and

(h) Prostheses.

(10) Drug therapy.

(a) Unnecessary drugs. Each resident's drug regimen shall be free from unnecessary drugs.

(b) Antipsychotic drugs. Based on a comprehensive assessment of a resident, the facility shall ensure that:

1. Residents who have not used antipsychotic drugs and are not given these drugs unless antipsychotic drug therapy is necessary to treat a specific condition; and

2. Residents who use antipsychotic drugs receive gradual dose reductions, drug holidays or behavioral programming, unless clinically contraindicated in an effort to discontinue these drugs.

(11) Hydration. The facility shall provide each resident with sufficient fluid intake to maintain proper hydration and health.

(12) Naso-gastric tubes. Based on the comprehensive assessment of a resident, the facility shall ensure that:

(a) A resident who has been able to eat enough alone or with assistance is not fed by naso-gastric tube unless the resident's clinical condition demonstrates that use of a naso-gastric tube was unavoidable; and

(b) A resident who is fed by a naso-gastric or gastrostomy tube receives the appropriate treatment and services to prevent aspiration pneumonia, diarrhea, vomiting, dehydration, metabolic abnormalities, and nasal-pharyngeal ulcers and to restore, if possible, normal feeding function.

(c) Medication errors. The facility shall ensure that:

1. It is free of significant medication error rates; and

2. Residents are free of any significant medication errors.

Section 9. Nursing Services. The facility shall have sufficient nursing staff to provide nursing and related services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident, as determined by resident assessments and individual plans of care.

(1) Sufficient staff.

(a) The facility shall provide services by sufficient numbers of each of the following types of personnel on a twenty-four (24) hour basis to provide nursing care to all residents in accordance with resident care plans:

1. Except when waived under subsection (3) of this section, licensed nurses; and
2. Other nursing personnel.

(b) Except when waived under subsection (3) of this section, the facility shall designate a licensed nurse to serve as a charge nurse on each tour of duty.

(2) Registered nurse.

(a) Except when waived under subsection (3) or (4) of this section, the facility shall use the services of a registered nurse for at least eight (8) consecutive hours a day, seven (7) days a week.

(b) Except when waived under subsection (3) or (4) of this section, the facility must designate a registered nurse to serve as the director of nursing on a full-time basis.

(c) The director of nursing may serve as a charge nurse only when the facility has an average daily occupancy of sixty (60) or fewer residents.

(3) Licensed nurse waiver. Waiver of requirement to provide licensed nurses on a twenty-four (24) hour basis. A facility may request a waiver from the requirement that a nursing facility provide a registered nurse for at least eight (8) consecutive hours a day, seven (7) days a week, as specified in subsection (2) of this section, and the requirement that a nursing facility provide licensed nurses on a twenty-four (24) hour basis, including a charge nurse as specified in subsection (1) of this section, if the following conditions are met:

(a) The facility demonstrates to the satisfaction of the cabinet that the facility has been unable, despite diligent efforts (including offering wages at the community prevailing rate for nursing facilities), to recruit appropriate personnel;

(b) The cabinet determines that a waiver of the requirement will not endanger the health or safety of individuals staying in the facility;

(c) A waiver granted under the conditions listed in this subsection is subject to revocation if the cabinet finds that the health and safety of the residents is threatened.

(d) In granting or renewing a waiver, a facility may be required by the cabinet to use other qualified, licensed personnel.

(e) The facility shall have an on-call system which provides for an immediate response by a registered nurse or a physician for those times when licensed nursing services are not available.

(4) Registered nurse waiver. Wavier of the requirement to provide services of a registered nurse for more than forty (40) hours a week, including a director of nursing specified in subsection (2) of this section, may be granted if the cabinet finds that the facility:

(a) Is located in a rural area and the supply of skilled nursing facility services in the area is not sufficient to meet the needs of individuals residing in the area;

(b) Has one (1) full-time registered nurse who is regularly on duty at the facility forty (40) hours a week; and

(c) Either:

1. Has only patients whose physicians have indicated (through physicians' orders or admission notes) that they do not require the services of a registered nurse or a physician for a forty-eight (48) hour period; or

2. Has made arrangements for a registered nurse or a physician to spend time at the facility, as determined necessary by the physician, to provide necessary skilled nursing services on days when the regular full-time registered nurse is not on duty.

(d) A waiver of the registered nurse requirement under paragraph (a) of this subsection is subject to revocation if the cabinet finds that the health and safety of the residents is threatened.

(5) When a waiver is granted a facility shall inform the residents, their legal representatives, and [responsible party []members of their immediate family[]].

Section 10. Dietary service in the facility shall provide each resident with a nourishing, palatable, well-balanced diet that meets the daily nutritional and special dietary needs of each resident.

(1) Staffing. The facility shall employ a qualified dietician either full time, part time, or on a consultant basis.

(a) If a qualified dietician is not employed full time, the facility shall designate a person to serve as the director of food service.

(b) Qualified dietician means a person who has[:

1.] earned at least a baccalaureate degree from a college or university which is accredited by the Southern Association of Colleges and Universities, or an accrediting agency recognized by the Southern Association of Colleges and Universities or a successor to the powers of both; and [or]

1. [2.] Successfully completed minimum academic requirements established by the Commission on Dietetic Registration, an affiliate of the National Commission for Health Certifying Agencies; or [and]

2. [3.] Successfully completed one (1) of the accredited experience options established by the Commission on Dietitic Registration, which includes but is not limited to, completion of an accredited coordinated undergraduate program, an accredited dietetic internship, and approved three (3) preplanned work experience, or a master's degree in nutrition or a related area with six (6) months of full-time or equivalent qualifying experience.

(2) Sufficient staff. The facility shall employ sufficient support personnel competent to carry out the functions of the dietary service.

(3) Menus and nutritional adequacy. Menus shall:

(a) Meet the nutritional needs of residents in accordance with the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences;

(b) Be prepared in advance;

(c) Be followed;

(d) Be posted at least one (1) week in advance, with changes recorded on the menu, and kept on file for at least thirty (30) days.

(4) Food. Each resident shall receive and the facility shall provide:

(a) Food prepared by methods that conserve nutritive value, flavor and appearances;

(b) Food that is palatable, attractive and at the proper temperature;

(c) Food prepared in a form designed to meet individual needs; and

(d) Substitutes offered of similar nutritive value to residents who refuse food served.

(5) Therapeutic diets. Therapeutic diets must

be prescribed by the attending physician.

(6) Frequency of meals.

(a) Each resident shall receive and the facility shall provide at least three (3) meals daily, at regular times comparable to normal mealtimes in the community.

(b) There shall be no more than fourteen (14) hours between a substantial evening meal and breakfast the following day, except as provided in paragraph (d) of this subsection.

(c) The facility shall offer snacks at bedtime daily.

(d) When a nourishing snack is provided at bedtime, up to sixteen (16) hours may elapse between a substantial evening meal and breakfast the following day if a resident group agrees to this meal span and a nourishing snack is served.

(7) Assistive devices. The facility shall provide special eating equipment and utensils for residents who need them.

(8) Sanitary conditions. The facility shall:

(a) Procure food from sources approved or considered satisfactory by federal, state or local authorities;

(b) Store, prepare, distribute, and serve food under sanitary conditions; and

(c) Dispose of garbage and refuse properly.

Section 11. Physician Services. A physician shall personally approve a recommendation that an individual be admitted to a facility. Each resident shall remain under the care of a physician.

(1) Physician supervision. The facility shall ensure that:

(a) The medical care of each resident is supervised by a physician; and

(b) Another physician supervises the medical care of residents when their attending physician is unavailable.

(2) Physician visits. The physician shall:

(a) Review the resident's total program of care, including medications and treatments, at each visit required by subsection (3) of this section;

(b) Write, sign and date progress notes at each visit; and

(c) Sign all orders.

(3) Frequency of physician visits. The resident shall be seen by a physician at least once every thirty (30) days for the first ninety (90) days after <u>initial</u> admission, and at least once every ninety (90) days thereafter.

(a) A physician visit is considered timely if it occurs not later than ten (10) days after the date the visit was required.

(b) Except as provided in paragraph <u>(c)</u> [(e)] of this subsection, all required physician visits shall be made by the physician personally.

(c) At the option of the physician, required visits after the initial visit may alternate between personal visits by the physician and visits by a physician assistant or nurse practitioner in accordance with subsection (5) of this section.

(4) Availability of physicians for emergency care. The facility shall provide or arrange for the provision of physician services twenty-four (24) hours a day, in case of an emergency.

(5) Physician delegation of tasks.

(a) Except as specified in paragraph (b) of this subsection, a physician may delegate tasks to a physician assistant or nurse practitioner who is acting within the scope of practice as defined by state law, and is under the supervision of the physician.

(b) A physician shall not delegate a task when the regulations specify that the physician shall perform it personally, or when the delegation is prohibited under state law or by the facility's own policies.

Section 12. Specialized Rehabilitative Services. A facility shall provide or obtain rehabilitative services, such as physical therapy, speech-language pathology, and occupational therapy, to every resident it admits, as indicated by the resident's comprehensive assessment.

(1) Provision of services. If specialized rehabilitative services are required in the resident's comprehensive plan of care, the facility shall:

(a) Provide the required services; or

(b) Obtain the required services from an outside resource in accordance with Section 15(6)(a) and (b) of this regulation, from a provider of specialized rehabilitative services.

(2) Qualifications. Specialized rehabilitative services must be provided under the written order of a physician by qualified personnel.

Section 13. Dental Services. The facility shall assist residents in obtaining routine and twenty-four (24) hour emergency dental care. The facility shall provide or obtain from an outside resource, in accordance with Section 15(6)(a) and (b) of this regulation following dental services to meet the needs of each resident:

(1) Routine dental services; and

(2) Emergency dental services.

Section 14. Pharmacy Services. The facility shall provide routine and emergency drugs and biologicals to its residents, or obtain them under an agreement described in Section 15(6)(a) and (b) of this regulation.

(1) Procedures.

(a) A facility shall provide pharmaceutical services (including procedures that assure the accurate acquiring, receiving, dispensing, and administering of all drugs and biologicals) to meet the needs of each resident.

(b) 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 (KRS Chapter 314) or by personnel who have completed a state approved training program from a state approved 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 or registered nurse, or a physician. If intravenous injections are necessary they shall be administered by a licensed physician, registered nurse, or properly trained licensed <u>practical</u> nurse. Each dose administered shall be recorded in the medical record.

(2) Service consultation. The facility shall employ or obtain the services of a pharmacist licensed pursuant to KRS Chapter 315 who:

(a) Provides consultation on all aspects of the provision of pharmacy services in the facility;

(b) Establishes a system of records of receipt and disposition of all drugs in sufficient detail to enable an accurate reconciliation; and

(c) Determines that drug records are in order and that an account of all controlled drugs is maintained and periodically reconciled.

(3) Drug regimen review.

(a) The drug regimen of each resident shall be reviewed at least once a month by a licensed pharmacist.

(b) The pharmacist shall report any irregularities to the attending physician or the director of nursing, or both, and these reports shall be acted upon.

(4) Labeling of drugs and biologicals. The facility shall label drugs and biologicals in accordance with currently accepted professional principles, and include the appropriate accessory and cautionary instructions, and the expiration date.

(5) Storage of drugs and biologicals. In accordance with state and federal laws, the facility shall store all drugs and biologicals in locked compartments under proper temperature controls, and permit only authorized personnel to have access to the keys.

(6) The facility shall provide separately locked, permanently affixed compartments for storage of controlled drugs listed in Schedule II of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and other drugs subject to abuse, except when the facility uses single unit package drug distribution systems in which the quantity stored is minimal and a missing dose can be readily detected.

Section 15. Administration. A facility shall be administered in a manner that enables it to use its resources effectively and efficiently to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident.

(1) Compliance with federal, state and local laws and professional standards. The facility shall operate and provide services in compliance with all applicable federal, state and local laws, regulations and codes, and with accepted professional standards and principles that apply to professionals providing services in a facility.

(2) Governing body.

(a) The facility shall have a governing body, or designated persons functioning as a governing body, that is legally responsible for establishing and implementing policies regarding the management and operation of the facility; and

(b) The governing body appoints the administrator who shall be:

1. Licensed as a nursing home administrator pursuant to KRS 216A.080; and

2. Responsible for management of the facility.

(3) Required training of nurse aides.

(a) General rules. A facility shall not use any individual working in the facility as a nurse aide for more than four (4) months, on a full-time, temporary, per diem, or other basis, unless:

1. That individual is listed on the Kentucky Nurse Aide Registry; and

2. That individual is competent to provide nursing and nursing related services.

(b) Competency. A facility shall permit an individual to serve as a nurse aide or provide services of a type for which the individual has not demonstrated competence only when:

1. The individual is currently enrolled and participating in the Kentucky Medicaid Nurse Aide Training Program; or

2. The facility has asked and not yet received a reply from the Kentucky Nurse Aide Registry for information concerning the individual.

(c) Regular in-service education. The facility shall provide regular performance review and regular in-service education to ensure that individuals used as nurse aides are competent to perform services as nurse aides. In-service education must include training for individuals providing nursing and nursing related services to residents with cognitive impairments.

(4) Proficiency of nurse aides. The facility shall ensure that nurse aides are able to demonstrate competency in skills and techniques necessary to care for residents' needs, as identified through resident assessments, and described in the plan of care.

(5) Staff qualifications.

(a) The facility shall employ on a full-time, part-time, or consultant basis those professionals necessary to carry out the provisions of this regulation.

(b) Professional staff shall be licensed, certified or registered in accordance with applicable state statutes.

(6) Use of outside resources.

(a) If the facility does not employ a qualified professional person to furnish a specific service to be provided by the facility, the facility shall have that service furnished to residents by a person or agency outside the facility.

(b) Arrangements or agreements pertaining to services furnished by outside resources shall specify in writing that the facility assumes responsibility for:

1. Obtaining services that meet professional standards and principles that apply to professionals providing services in such a facility; and

2. The timeliness of the services.

(7) Medical director.

(a) The facility shall designate a physician to serve as medical director.

(b) The medical director shall be responsible for:

1. Implementation of resident care policies; and

2. The coordination of medical care in the facility.

(8) Laboratory services.

(a) The facility shall provide or obtain clinical laboratory services to meet the needs of its residents. The facility shall be responsible for the quality and timeliness of the services.

1. If the facility provides its own laboratory services, the services shall meet the applicable state statutes and regulations pursuant to KRS Chapter 333, or laboratory requirements for hospitals for those distinct part units within licensed hospitals.

2. If the facility provides blood bank and transfusion services, it must meet the applicable conditions for:

a. Independent laboratories licensed pursuant to KRS Chapter 333; or

b. Hospitals licensed pursuant to 902 KAR 20:016;

3. If the laboratory chooses to refer specimens for testing to another laboratory, the referral laboratory must be licensed in accordance with KRS Chapter 333, or meet the laboratory standards in 902 KAR 20:016 for hospitals.

4. If the facility does not provide laboratory services on site, it shall have an agreement to obtain these services only from a laboratory that is licensed pursuant to KRS Chapter 333 as an independent laboratory, or in accordance with 902 KAR 20:016 for hospital laboratories.

(b) The facility shall:

1. Provide or obtain laboratory services only when ordered by the attending physician;

2. Promptly notify the attending physician of the findings;

3. Assist the resident in making transportation arrangements to and from the source of service, if the resident needs assistance.

4. File in the resident's clinical record signed and dated reports of clinical laboratory services.

(9) Radiology and other diagnostic services.

(a) The nursing facility shall provide or obtain radiology and other diagnostic services to meet the needs of its residents. The facility is responsible for the quality and timeliness of the services.

1. If the facility provides its own diagnostic services, the services must meet the standards established in 902 KAR 20:016, Section 4(6).

2. If the facility does not provide diagnostic services, it shall have an agreement to obtain these services from a provider or supplier that is licensed or registered pursuant to KRS 211.842 through KRS 211.852.

(b) The facility shall:

1. Provide or obtain radiology and other diagnostic services only when ordered by the attending physician;

2. Promptly notify the attending physician of the findings;

3. Assist the resident in making transportation arrangements to and from the source of service, if the resident needs assistance; and

4. File in the resident's clinical record signed and dated reports of x-ray and other diagnostic services.

(10) Clinical records.

(a) The facility shall maintain clinical records on each resident in accordance with accepted professional standards and practices that are:

1. Complete;

2. Accurately documented;

3. Readily accessible; and

4. Systematically organized.

(b) Retention of records. After resident'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 the longest.

(c) The facility shall safeguard clinical record information against loss, destruction, or unauthorized use;

(d) The facility shall keep confidential all information contained in the resident's records, regardless of the form or storage method of the records, except when release is required by:

1. Transfer to another health care institution;

2. Law;

3. Third-party payment contract; or

4. The resident.

(e) The facility shall:

1. Permit each resident to inspect his or her records on request; and

2. Provide copies of the records to each resident no later than forty-eight (48) hours after a written request from a resident, at a photocopying cost not to exceed the amount customarily charged in the community.

(f) The clinical record shall contain:

1. Sufficient information to identify the resident;

2. A record of the resident's assessments;

3. The plan of care and services provided; and

4. The results of any preadmission screening conducted by the state; and

5. Progress notes.

(11) Disaster and emergency preparedness.

(a) The facility shall have detailed written plans and procedures to meet all potential emergencies and disasters, such as fire, severe weather, and missing residents.

(b) The facility shall train all employees in emergency procedures when they begin to work in the facility, periodically review the procedures with existing staff, and carry out staff drills using those procedures.

(12) Transfer agreement.

(a) The facility shall have in effect a written transfer agreement with one (1) or more licensed hospitals that reasonably assures that:

1. Residents shall be transferred from the facility to the hospital, and ensured of timely admission to the hospital when transfer is medically appropriate as determined by the attending physician; and

2. Medical and other information needed for care and treatment of residents and when the transferring facility deems it appropriate, for determining whether such residents can be adequately cared for in a less expensive setting than either the facility or the hospital, will be exchanged between the institutions.

(b) The facility shall be considered to have a transfer agreement in effect if the facility has attempted in good faith to enter into an agreement with a hospital sufficiently close to the facility to make transfer feasible.

(13) Quality assessment and assurance.

(a) A facility shall maintain a quality assessment and assurance committee consisting of:

1. The director of nursing services;

2. A physician designated by the facility; and

3. At least three (3) other members of the facility's staff.

(b) The quality assessment and assurance committee:

1. Meets at least quarterly to identify issues with respect to which quality assessment and assurance activities are necessary; and

2. Develops and implements appropriate plans of action to correct identified quality deficiencies.

CLAY CESSNA, Inspector General
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: February 5, 1991
FILED WITH LRC: February 6, 1991 at 11 a.m.

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

904 KAR 2:016. Standards for need and amount; AFDC.

RELATES TO: KRS 205.200(2), 205.210(1), 42 CFR 435.831, 45 CFR 233, 250.33, 255, 256, PL 101-508
STATUTORY AUTHORITY: KRS 194.050, 205.200(2)
NECESSITY AND FUNCTION: The Cabinet for Human Resources is required to administer the public assistance programs. KRS 205.200(2) and 205.210(1) require that the secretary establish the standards of need and amount of assistance for the Aid to Families with Dependent Children Program, referred to as AFDC[, in accordance with federal regulations and Title IV-A of the Social Security Act]. This regulation sets forth the standards by which the need for and the amount of an AFDC assistance payment is established.

Section 1. Definitions. (1) "Approved JOBS activities" means participation in component, precomponent, component preparation, preemployment, transitional extension or self-initiated JOBS activities which have been determined by the Department for Social Insurance to be consistent with employment goals.

(2) "Assistance group" means a group composed of one (1) or more children and may include as specified relative any person specified in 904 KAR 2:006, Section 3. The assistance group shall include the dependent child, child's eligible parent, and all eligible siblings living in the home with the needy child. Additionally, if the dependent child's parent is a minor living in the home with his eligible parent, the minor's parent shall also be included in the assistance group if the minor's parent applied for assistance. The incapacitated or unemployed natural or adoptive parent of the child who is living in the home shall be included as second parent if the technical eligibility factors are met.

(3) "Beyond the control" means:

(a) Loss or theft of the money;

(b) The individual to whom the lump sum was designated no longer lives in the household, making the lump sum income inaccessible;

(c) Expenditure of the lump sum income to meet extraordinary expenses, that are not included in the AFDC Standard of Need.

(4) "Certified child care providers" means a small family day care in a provider's home serving fewer than four (4) children. This provider has voluntarily registered with the Cabinet for Human Resources, Department for Social Services. Standards for certification are contained in 905 KAR 2:070.

(5) "Claimant" means the individual responsible for an overpayment.

(6) "Combination programs" means any educational program which includes as its basis literacy or GED. This program must also include life skills, skills training or job readiness training.

(7) "Component" means services and activities such as education, job skills training, job readiness, job development and placement, job search, on-the-job training, work supplementation or community work experience program activities available under the Job Opportunities and Basic Skills (JOBS) program. Each individual component is described in 904 KAR 2:006.

(8) "Component preparation" means the period in which assessment, testing, development of the employability plan and referrals for removal of barriers takes place.

(9) "Full-time employment" means employment of thirty (30) hours per week or 130 hours per month or more.

(10) "Full-time school attendance" means a workload of at least:

(a) The number of hours required by the individual program for participation in a General Educational Development (GED) program; or

(b) Twelve (12) semester hours or more in a college or university; or six (6) semester hours or more during the summer term; or the equivalent in a college or university if other than a semester system is used; or

(c) The number of hours required by the individual high school/vocational school to fulfill their definition of full time; or

(d) Eight (8) clock hours per month in a literacy program.

(e) Twenty-five (25) clock hours per week in combination programs.

(11) "Gross income limitation standard" means 185 percent of the sum of the assistance standard, as set forth in Section 7 of this regulation.

(12) "Licensed child care providers" means day care centers serving twelve (12) or more children, or day care in a provider's home serving four (4) to twelve (12) children, which are licensed by the Division of Licensing and Regulation, Office of the Inspector General, as provided in 905 KAR 2:010.

(13) "Lump sum income" means income that does not occur on a regular basis, and does not represent accumulated monthly income received in a single sum.

(14) "Minor" means any person who is under the age of eighteen (18) or under the age of nineteen (19) in accordance with 45 CFR 233.90(b)(3). EXCEPTION: For the purpose of deeming income, a minor parent [or legal guardian] is considered any person under the age of eighteen (18).

(15) "Part-time employment" means employment of less than thirty (30) hours per week or 130 hours per month or not employed throughout the entire month.

(16) "Part-time school attendance" means a workload of anything less than "full-time school attendance."

(17) "Precomponent" means a waiting period between the dates of component assignment and component commencement.

(18) "Preemployment" means a waiting period between the dates of hiring and employment commencement.

(19) "Prospective budgeting" means computing the amount of assistance based on income and circumstances which will exist in the month(s) for which payment is made.

(20) "Recoupment" means recovery of overpayments of assistance payments.

(21) "Retrospective budgeting" means computing amount of assistance based on actual income and circumstances which existed in the second month prior to the payment month.

(22) "Sanctioned individual" means any person who is required to be included in the assistance group but who is excluded from the assistance

group due to failure to fulfill an eligibility requirement.

(23) "Self-initiated" means approved participation in which education or training activities are initiated by the client and determined to meet agency criteria. Specific criteria is contained in 904 KAR 2:006.

(24) "Transitional extension" means a period of up to ninety (90) days subsequent to the discontinuance of the AFDC case in which supportive service payments may continue if:

(a) The case is not eligible for transitional child care, as described in Section 9 of this regulation;

(b) The case is not discontinued due to fraudulent activity; and

(c) The case is not discontinued due to failure to comply with procedural requirements; and

(d) The JOBS participant elects to continue the approved component activity in which she is engaged at the time of discontinuance.

(25) "Unavailable" means that the income is not accessible to the AFDC benefit group for use toward basic food, clothing, shelter, and utilities.

(26) "Unregulated child care providers" means private providers, such as friends or relatives, who are not required to be certified or licensed.

Section 2. Resource Limitations. (1) Real and personal property owned in whole or in part by an applicant or recipient including a sanctioned individual and his parent, even if the parent is not an applicant or recipient, if the applicant or recipient is a dependent child living in the home of the parent, shall be considered.

(2) The amount that can be reserved by each assistance group shall not be in excess of $1,000 equity value excluding those items specifically listed in subsection (1) of this section as follows:

(3) Excluded resources. The following resources shall be excluded from consideration:

(a) One (1) owner-occupied home;

(b) Home furnishings, including all appliances;

(c) Clothing;

(d) One (1) motor vehicle, not to exceed $1,500 equity value;

(e) Farm machinery, livestock or other inventory, and tools and equipment other than farm, used in a self-employment enterprise;

(f) Items valued at less than fifty (50) dollars each;

(g) One (1) burial plot or space per family member;

(h) Funeral agreements not to exceed maximum equity of $1,500 per family member;

(i) Real property which the assistance group is making a good faith effort to sell. This exemption shall not exceed a period of nine (9) months and is contingent upon the assistance group agreeing to repay AFDC benefits received beginning with the first month of the exemption. Any amount of AFDC paid during that period that would not have been paid if the disposal of property had occurred at the beginning of the period is considered an overpayment. The amount of the repayment shall not exceed the net proceeds of the sale. If the property has not been sold within the nine (9) months, or if eligibility stops for any other reason, the entire amount of assistance paid during the nine (9) month period shall be treated as an overpayment;

(j) Other items or benefits mandated by federal regulations.

(4) Disposition of resources.

(a) An applicant or recipient shall not have transferred or otherwise divested himself of property without fair compensation in order to qualify for assistance.

(b) If the transfer was made expressly for the purpose of qualifying for assistance and if the uncompensated equity value of the transferred property, when added to total resources, exceeds the resource limitation, the household's application shall be denied, or assistance discontinued.

(c) The time period of ineligibility shall be based on the resulting amount of excess resources and begins with the month of transfer.

(d) If the amount of excess transferred resources does not exceed $500, the period of ineligibility shall be one (1) month; the period of ineligibility shall be increased one (1) month for every $500 increment up to a maximum of twenty-four (24) months.

Section 3. Income Limitations. In determining eligibility for AFDC the following shall apply:

(1) Gross income test.

(a) The total gross non-AFDC income of the assistance group, as well as income of parent, sanctioned individual and amount deemed available from the parent [or legal guardian] of a minor parent [or legal guardian] living in the home with such assistance group, and amount deemed available from a stepparent living in the home, and amount deemed available from an alien's sponsor and sponsor's spouse if living with the sponsor, shall not exceed the gross income limitation standard.

(b) Disregards specified in Section 4(1) of this regulation shall apply.

(c) If total gross income exceeds the gross income limitation standard, the assistance group is ineligible.

(2) Applicant eligibility test.

(a) An applicant eligibility test shall be applied if:

1. The gross income is below the gross income limitation standard; and

2. The assistance group has not received assistance during the four (4) months prior to the month of application.

(b) The total gross income after application of exclusions or disregards set forth in Section 4(1) and (2) of this regulation shall be compared to the assistance standard set forth in Section 7 of this regulation.

(c) If income exceeds this standard, the assistance group is ineligible.

(d) For assistance groups who meet the gross income test but who have received assistance any time during the four (4) months prior to the application month, the applicant eligibility test shall not apply.

(3) Benefit calculation.

(a) If the assistance group meets the criteria set forth in subsections (1) and (2) of this section, benefits shall be determined by applying disregards in Section 4(1), (2), and (3) of this regulation.

(b) If the assistance group's income, after application of appropriate disregards, exceeds the assistance standard, the assistance group is ineligible.

(c) Amount of assistance for the initial two (2) months of eligibility shall be determined

prospectively and for subsequent months retrospectively.

(4) Ineligibility period.

(a) A period of ineligibility shall be established for an applicant or recipient whose income in the month of application or during any month for which assistance is paid exceeds the limits as set forth in subsections (2) or (3) of this section due to receipt of lump sum income.

(b) The ineligibility period shall be recalculated if any of the following circumstances occur:

1. The standard of need increases and the amount of grant the assistance group would have received also changes.

2. Income, which caused the calculation of the ineligibility period, has become unavailable for reasons that were beyond the control of the benefit group.

3. The assistance group incurs and pays necessary medical expenses not reimbursable by a third party.

Section 4. Excluded or Disregarded Income. All gross non-AFDC income received or anticipated to be received by the assistance group, natural parent and parent [or legal guardian] of a minor parent [or legal guardian] living in the home with such assistance group and stepparent living in the home, shall be considered with the applicable exclusions or disregards as set forth below:

(1) Gross income test. All incomes listed below shall be excluded or disregarded:

(a) Disregards applicable to stepparent income or income of the parent [or legal guardian] of a minor parent [or legal guardian living] in the home with the assistance unit, as set forth in Section 5 of this regulation;

(b) Disregards applicable to alien sponsor's income, as set forth in Section 6 of this regulation;

(c) Disregards applicable to self-employment income;

(d) Earnings received by a dependent child from participation in the Summer Youth Program, Work Experience Program, Limited Work Experience Program, and Tryout Employment Program under the Job Training Partnership Act (JTPA) for a period not to exceed six (6) months within a given calendar year, effective March 1, 1988;

(e) Unearned income received by a dependent child from participation in a JTPA program;

(f) Value of the monthly allotment of food stamp coupons or value of United States Department of Agriculture (USDA) donated foods;

(g) Nonemergency medical transportation payments;

(h) Payments from complementary programs if no duplication exists between the other assistance and the assistance provided by the AFDC program;

(i) Educational grants, loans, scholarships, including payments for actual educational costs made under the GI Bill, obtained and used under conditions that preclude their use for current living costs and all education grants and loans to any undergraduate made or insured under any program administered by the United States Commissioner of Education;

(j) Highway relocation assistance;

(k) Urban renewal assistance;

(l) Federal disaster assistance and state disaster grants;

(m) Home produce utilized for household consumption;

(n) Housing subsidies received from federal, state or local governments;

(o) Receipts distributed to members of certain Indian tribes by the federal government under 25 USC 459, 1261 and 1401 [which are referred to in Section 5 of Public Law 94-114 that became effective October 17, 1975];

(p) Funds distributed per capita to or held in trust for members of any Indian tribe by the federal government under 25 USC 459, 1261 and 1401 [under Public Law 92-254, Public Law 93-134 or Public Law 94-540];

(q) Benefits received from the [under Title VII,] Nutrition Program for the Elderly, under 42 USC 3001 [of the Older Americans Act of 1965, as amended];

(r) Payments for supporting services or reimbursement of out-of-pocket expenses made to individual volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE) and any other programs under 42 USC 5001 and 5011 [Titles II and III, pursuant to Section 418 of Public Law 93-113];

(s) Payments to "Volunteers in Service to America" (VISTA) participants under 42 USC 1451 [volunteers under Title I of Public Law 93-113 pursuant to Section 404(g) of Public Law 93-113] except when the value of such payments when adjusted to reflect the number of hours volunteers are serving is the same as or greater than the minimum wage under state or federal law, whichever is greater;

(t) The value of supplemental food assistance received under 42 USC 1771 [the Child Nutrition Act of 1966, as amended], and the special food service program for children under 42 USC USC 1755 [the National School Lunch Act], as amended;

(u) Payments from the Cabinet for Human Resources, Department for Social Services, for child foster care, adult foster care, or subsidized adoption;

(v) Payments made under the Low Income Home Energy Assistance Program [Act] (LIHEAP) under 42 USC 8621, and other energy assistance payments which are made to an energy provider or provided in-kind;

(w) The first fifty (50) dollars of child support payments collected in a month which represents the current month's support obligation and is returned to the assistance group;

(x) For a period not to exceed six (6) months within a given year, earnings of a dependent child in full-time school attendance;

(y) Nonrecurring gifts of thirty (30) dollars or less received per calendar quarter for each individual included in the assistance group; and

(z) Effective January 3, 1989, loans.

(aa) Effective June 1, 1989, up to $12,000 to Aleuts and $20,000 to individuals of Japanese ancestry for payments made by the United States Government to compensate for hardships experienced during World War II.

(bb) Effective June 1, 1989, the essential person's portion of the SSI check.

(cc) Income of an individual receiving mandatory or optional state supplementary payments.

(dd) The advance payment or refund of earned income tax credit (EITC).

(ee) [(dd)] Other benefits mandated by federal regulations or legislation.

(2) Applicant eligibility test. The exclusions

or disregards set forth in subsection (1) of this section and those listed below shall be applied:

(a) Earnings received from participation in the Job Corps Program under JTPA by an AFDC child;

(b) Earnings of a dependent child in full-time school attendance for a period not to exceed six (6) months within a given year;

(c) Standard work expense deduction of ninety (90) dollars for full-time and part-time employment; and

(d) Child care, for a child or incapacitated adult living in the home and receiving AFDC, is allowed as a work expense is allowed not to exceed $175 per month per individual for full-time employment or $150 per month per individual for part-time employment, or $200 per month per individual for child under age two (2). [; and]

[(e) The advance payment or refund of earned income tax credit (EITC).]

(3) Benefit calculation. After eligibility is established, exclude or disregard all incomes listed in subsections (1) and (2) of this section as well as:

(a) Child support payments assigned and actually forwarded or paid to the department; and

(b) First thirty (30) dollars and one-third (1/3) of the remainder of each individual's earned income not already disregarded, if that individual's needs are considered in determining the benefit amount. The one-third (1/3) portion of this disregard shall not be applied to an individual after the fourth consecutive month it has been applied to his earned income. The thirty (30) dollar portion of this disregard shall be applied concurrently with the one-third (1/3) disregard, however, it shall be extended for an additional eight (8) months following the four (4) months referenced in the preceding sentence. These disregards shall not be available to the individual until he has not been a recipient for twelve (12) consecutive months; and

(c) Earnings of a child in full-time school attendance or earnings of a child in part-time school attendance, if not working full-time.

(4) Exceptions. Disregards from earnings in subsections (2)(c) and (d) and (3)(b) of this section shall not apply for any month in which the individual:

(a) Reduces, terminates, or refuses to accept employment within the period of thirty (30) days preceding such month, unless good cause exists as follows:

1. The individual is unable to engage in such employment or training for mental or physical reasons; or

2. The individual has no way to get to and from the work site or the site is so far removed from the home that commuting time would exceed three (3) hours per day; or

3. Working conditions at such job or training would be a risk to the individual's health or safety; or

4. A bona fide offer of employment at a minimum wage customary for such work in the community was not made; or

5. Effective February 1, 1988, the child care arrangement is terminated through no fault of the client; or

6. Effective February 1, 1988, the available child care does not meet the needs of the child, for example, handicapped or retarded children.

(b) Fails to make a timely report of earnings unless good cause exists as follows:

1. The assistance group moved and reported the move timely, however, the move resulted in a delay in receiving or failure to receive the mandatory monthly report form; or

2. An immediate family member living in the home was institutionalized or died during the filing period; or

3. The specified relative was out of town during the entire filing period; or

4. The assistance group has been directly affected by a natural disaster (for example, fire, flood, storm, earthquake).

(c) Requests assistance be terminated for the primary purpose of evading the four (4) month limitation on the deduction in subsection (3)(b) of this section.

(5) Sanction exception. The earned income of sanctioned individuals shall be counted without providing the exclusions or disregards in either subsections (2) and (3) of this section.

Section 5. Income and Resources. Income and resources of a stepparent living in the home with a dependent child and parent [or legal guardian] living in the home with a minor parent [or legal guardian] but whose needs are not included in the grant are considered as follows:

(1) Income. The gross income is considered available to the assistance group, subject to the following exclusions or disregards:

(a) The first seventy-five (75) dollars of the gross earned income;

(b) An amount equal to the AFDC assistance standard for the appropriate family size, for the support of the stepparent or parent [or legal guardian] of a minor parent [or legal guardian] and any other individuals living in the home but whose needs are not taken into consideration in the AFDC eligibility determination and are or may be claimed by the stepparent or parent [or legal guardian] of a minor parent [or legal guardian] as dependents for purposes of determining his federal personal income tax liability;

(c) Any amount actually paid by the stepparent or parent [or legal guardian] of a minor parent [or legal guardian] to individuals not living in the home who are or may be claimed by him as dependents for purposes of determining his personal income tax liability;

(d) Payments by the stepparent and parent [or legal guardian] of a minor parent [or legal guardian] for alimony or child support with respect to individuals not living in the household; and

(e) Income of a stepparent and parent [or legal guardian] of a minor parent [or legal guardian] receiving Supplemental Security Income (SSI) [under Title XVI].

(2) Sanction exception. The needs of any sanctioned individual are not eligible for the exclusions listed in this section.

(3) Resources. Resources which belong solely to the stepparent and parent [or legal guardian] of a minor parent [or legal guardian] are not considered in determining eligibility of the parent or the assistance group.

Section 6. Alien Income and Resources. (1) For the purposes of this section the alien's sponsor and sponsor's spouse (if living with the sponsor) shall be referred to as sponsor.

(2) The gross non-AFDC income and resources of

an alien's sponsor shall be deemed available to the alien, subject to disregards as set forth below, for a period of three (3) years following entry into the United States.

(3) If an individual is sponsoring two (2) or more aliens, the income and resources shall be prorated among the sponsored aliens.

(4) A sponsored alien is ineligible for any month in which adequate information on the sponsor or sponsor's spouse is not provided.

(5) If an alien is sponsored by an agency or organization, which has executed an affidavit of support, that alien is ineligible for benefits for a period of three (3) years from date of entry into the United States, unless it is determined that the sponsoring agency or organization is no longer in existence or does not have the financial ability to meet the alien's needs.

(6) The provisions of this section shall not apply to those aliens identified in subsection (5) of this section.

(a) Income. The gross income of the sponsor is considered available to the assistance group subject to the following disregards:

1. Twenty (20) percent of the total monthly gross earned income, not to exceed $175;

2. An amount equal to the AFDC assistance standard for the appropriate family size of the sponsor and other persons living in the household who are or may be claimed by the sponsor as dependents in determining his federal personal income tax liability, and whose needs are not considered in making a determination of eligibility for AFDC;

3. Amounts paid by the sponsor to nonhousehold members who are or may be claimed as dependents in determining his federal personal tax liability;

4. Actual payments of alimony or child support paid to nonhousehold members; and

5. Income of a sponsor receiving SSI or AFDC.

(b) Resources. Resources deemed available to the alien shall be the total amount of the resources of the sponsor and sponsor's spouse determined as if he were an AFDC applicant in this state, less $1,500.

Section 7. Payment Maximum. (1) The AFDC payment maximum includes amounts for food, clothing, shelter, and utilities.

(2) Countable income is deducted in determining eligibility for and the amount of the AFDC assistance payment, as follows:

Effective July 1, 1989

Number of Eligible Persons	Payment Maximum	Standard of Need
1 child	$162	$394
2 persons	$196	$460
3 persons	$228	$526
4 persons	$285	$592
5 persons	$333	$658
6 persons	$376	$724
7 or more persons	$419	$790

(3) Since the payment maximum does not meet full need, effective July 1, 1989, a forty-five (45) percent ratable reduction shall be applied to the deficit between the family's countable income and the standard of need for the appropriate family size.

(4) The assistance payment shall be fifty-five (55) percent of the deficit or the payment maximum, whichever is the lesser amount.

Section 8. Job Opportunities and Basic Skills (JOBS) Child Care and Supportive Services. (1) Individuals participating in the JOBS program shall be entitled to payment of:

(a) Child care;

(b) Transportation; and

(c) Other supportive service costs necessary for participation in an approved JOBS activity, as described in subsection (10) of this section.

(2) JOBS activities are described in 904 KAR 2:006, Section 9.

(3) Child care eligibility in JOBS components. Child care shall be paid for a child meeting the criteria specified in Section 9(1) of this regulation. Child care shall be provided in the following situations:

(a) Precomponent;

(b) Component preparation;

(c) Component participation;

(d) Preemployment;

(e) Transitional extension; or

(f) On-the-job training (OJT) participants discontinued due to earned income or employment of 100 hours a month or more of the principal wage earner (PWE) in an AFDC-unemployed parent (AFDC-UP) case.

(4) Child care eligibility in self-initiated activities.

(a) Child care shall be provided in the same situations as in JOBS components with the following exceptions:

1. Transitional extension;

2. OJT participants discontinued due to increased earnings or hours of employment;

3. Component preparation; and

4. Precomponent, for persons waiting to enter self-initiated activities for the first time.

(b) Child care shall be provided only for approved self-initiated activities.

(5) Child care limitations.

(a) Child care payments shall:

1. Be made directly to the provider, in an amount equal to the actual cost, up to a payment maximum based on local market rates for components which:

a. Do not provide earned income; or

b. Are not work supplementation.

2. Be allowed as a deduction as outlined in Section 4(2)(d) of this regulation for any component yielding earned income, other than work supplementation.

(b) Payments shall not be made to a provider if the provider is:

1. The parent;

2. The legal guardian;

3. A member of the AFDC assistance unit which includes the child needing care;

4. Not meeting applicable standards of state and local law; or

5. Not allowing parental access.

(c) Local market rates shall be determined by:

1. The type of provider;

2. The age of the child;

3. The special needs of the child. Special needs shall be verified by:

a. Entitlement to disability benefits; or

b. Written statement from a physician or professional from a service agency such as Comprehensive Care, or the Department for Social Services;

4. The amount of time care is needed; and

5. The geographical boundaries of the fifteen (15) area development districts.

(d) Full-time (FT) and part-time (PT) attendance shall be determined by the provider.

(e) FT and PT maximum payment levels shall be established for the following groups of dependent children:

1. "Special needs" includes children in no certain age group;
2. "Infants" includes children under age one (1);
3. "Toddlers" includes children from age one (1) up to age three (3);
4. "Preschool" includes children from age three (3) up to age five (5);
5. "School-age" includes children age five (5) and over.

(f) Child care maximum payments shall be made as follows:

PURCHASE AREA DEVELOPMENT DISTRICT #1

	Special Needs		Infants		Toddlers	
	FT	PT	FT	PT	FT	PT
Licensed	$10	10	10	7	10	7
Certified	$ 9	9	9	6	9	6
Unregulated	$ 8	8	8	5	8	5

	Preschool		School-age	
	FT	PT	FT	PT
Licensed	$10	7	10	7
Certified	$ 9	6	9	6
Unregulated	$ 8	5	8	5

PENNYRILE AREA DEVELOPMENT DISTRICT #2

	Special Needs		Infants		Toddlers	
	FT	PT	FT	PT	FT	PT
Licensed	$10	10	10	7	9	6
Certified	$ 9	9	9	6	8	5
Unregulated	$ 8	8	8	5	7	4

	Preschool		School-age	
	FT	PT	FT	PT
Licensed	$ 9	6	9	6
Certified	$ 8	5	8	5
Unregulated	$ 7	4	7	4

GREEN RIVER AREA DEVELOPMENT DISTRICT #3

	Special Needs		Infants		Toddlers	
	FT	PT	FT	PT	FT	PT
Licensed	$10	10	9	6	9	6
Certified	$ 9	9	8	5	8	5
Unregulated	$ 8	8	7	4	7	4

	Preschool		School-age	
	FT	PT	FT	PT
Licensed	$ 9	6	8	5
Certified	$ 8	5	7	4
Unregulated	$ 7	4	6	3

BARREN RIVER AREA DEVELOPMENT DISTRICT #4

	Special Needs		Infants		Toddlers	
	FT	PT	FT	PT	FT	PT
Licensed	$12	12	12	9	10	7
Certified	$11	11	11	8	9	6
Unregulated	$10	10	10	7	8	5

	Preschool		School-age	
	FT	PT	FT	PT
Licensed	$10	7	10	7
Certified	$ 9	6	9	6
Unregulated	$ 8	5	8	5

LINCOLN TRAIL AREA DEVELOPMENT DISTRICT #5

	Special Needs		Infants		Toddlers	
	FT	PT	FT	PT	FT	PT
Licensed	$10	10	10	7	9	6
Certified	$ 9	9	9	6	8	5
Unregulated	$ 8	8	8	5	7	4

	Preschool		School-age	
	FT	PT	FT	PT
Licensed	$ 9	6	8	5
Certified	$ 8	5	7	4
Unregulated	$ 7	4	6	3

KENTUCKIANA REGIONAL PLANNING AND DEVELOPMENT AGENCY AREA DEVELOPMENT DISTRICT #6

	Special Needs		Infants		Toddlers	
	FT	PT	FT	PT	FT	PT
Licensed	$13	13	13	10	13	10
Certified	$12	12	12	9	12	9
Unregulated	$11	11	11	8	11	8

	Preschool		School-age	
	FT	PT	FT	PT
Licensed	$11	8	11	8
Certified	$10	7	10	7
Unregulated	$ 9	6	9	6

NORTHERN KENTUCKY AREA DEVELOPMENT DISTRICT #7

	Special Needs		Infants		Toddlers	
	FT	PT	FT	PT	FT	PT
Licensed	$12	12	12	9	12	9
Certified	$11	11	11	8	11	8
Unregulated	$10	10	10	7	10	7

	Preschool		School-age	
	FT	PT	FT	PT
Licensed	$12	9	11	8
Certified	$11	8	10	7
Unregulated	$10	7	9	6

BUFFALO TRACE AREA DEVELOPMENT DISTRICT #8

	Special Needs		Infants		Toddlers	
	FT	PT	FT	PT	FT	PT
Licensed	$10	10	8	5	8	5
Certified	$ 9	9	7	4	7	4
Unregulated	$ 8	8	6	3	6	3

	Preschool		School-age	
	FT	PT	FT	PT
Licensed	$ 8	5	8	5
Certified	$ 7	4	7	4
Unregulated	$ 6	3	6	3

GATEWAY AREA DEVELOPMENT DISTRICT #9

	Special Needs		Infants		Toddlers	
	FT	PT	FT	PT	FT	PT
Licensed	$10	10	8	5	8	5
Certified	$ 9	9	7	4	7	4
Unregulated	$ 8	8	6	3	6	3

	Preschool		School-age	
	FT	PT	FT	PT
Licensed	$ 8	5	8	5
Certified	$ 7	4	7	4
Unregulated	$ 6	3	6	3

FIVCO AREA DEVELOPMENT DISTRICT #10

	Special Needs		Infants		Toddlers	
	FT	PT	FT	PT	FT	PT
Licensed	$10	10	10	7	10	7
Certified	$ 9	9	9	6	9	6
Unregulated	$ 8	8	8	5	8	5

	Preschool		School-age	
	FT	PT	FT	PT
Licensed	$10	7	9	6
Certified	$ 9	6	8	5
Unregulated	$ 8	5	7	4

BIG SANDY AREA DEVELOPMENT DISTRICT #11

	Special Needs		Infants		Toddlers	
	FT	PT	FT	PT	FT	PT
Licensed	$10	10	10	7	10	7
Certified	$ 9	9	9	6	9	6
Unregulated	$ 8	8	8	5	8	5

	Preschool		School-age	
	FT	PT	FT	PT
Licensed	$10	7	10	7
Certified	$ 9	6	9	6
Unregulated	$ 8	5	8	5

KENTUCKY RIVER AREA DEVELOPMENT DISTRICT #12

	Special Needs		Infants		Toddlers	
	FT	PT	FT	PT	FT	PT
Licensed	$11	11	11	8	11	8
Certified	$10	10	10	7	10	7
Unregulated	$ 9	9	9	6	9	6

	Preschool		School-age	
	FT	PT	FT	PT
Licensed	$ 9	6	9	6
Certified	$ 8	5	8	5
Unregulated	$ 7	4	7	4

CUMBERLAND VALLEY AREA DEVELOPMENT DISTRICT #13

	Special Needs		Infants		Toddlers	
	FT	PT	FT	PT	FT	PT
Licensed	$10	10	10	7	10	7
Certified	$ 9	9	9	6	9	6
Unregulated	$ 8	8	8	5	8	5

	Preschool		School-age	
	FT	PT	FT	PT
Licensed	$ 9	6	10	7
Certified	$ 8	5	9	6
Unregulated	$ 7	4	8	5

LAKE CUMBERLAND AREA DEVELOPMENT DISTRICT #14

	Special Needs		Infants		Toddlers	
	FT	PT	FT	PT	FT	PT
Licensed	$10	10	9	6	9	6
Certified	$ 9	9	8	5	8	5
Unregulated	$ 8	8	7	4	7	4

	Preschool		School-age	
	FT	PT	FT	PT
Licensed	$ 9	6	9	6
Certified	$ 8	5	8	5
Unregulated	$ 7	4	7	4

BLUEGRASS AREA DEVELOPMENT DISTRICT #15

	Special Needs		Infants		Toddlers	
	FT	PT	FT	PT	FT	PT
Licensed	$12	12	12	9	12	9
Certified	$11	11	11	8	11	8
Unregulated	$10	10	10	7	10	7

	Preschool		School-age	
	FT	PT	FT	PT
Licensed	$11	8	11	8
Certified	$10	7	10	7
Unregulated	$ 9	6	9	6

(g) Child care payments shall be limited as follows:

1. Six (6) semesters (three (3) years) for a two (2) year postsecondary program;
2. Eight (8) semesters (nine (9) with good cause) for a four (4) year postsecondary program; or

3. No restrictions on other education and training activities.

(h) These limits apply to both full-time and part-time enrollment.

(i) In preemployment or precomponent, child care payments shall be limited to a period of two (2) weeks up to one (1) month if necessary to guarantee the child care arrangement shall not be lost.

(j) Child care payments shall not be made if:

1. An AFDC-UP qualifying parent is participating; and

2. The nonparticipating parent is not incapacitated.

(6) Authorization of child care payment.

(a) Child care payments shall be authorized upon the receipt of appropriate verification of the cost of care.

(b) Departmental forms required for verification are incorporated by reference in this regulation.

(c) Payments shall be authorized in accordance with 904 KAR 2:050.

(7) Restrictions on authorization of child care payments. Payment shall not be made if:

(a) Verification is not returned by the end of the month following the month in which the cost was incurred;

(b) The participant is sanctioned for noncompliance with JOBS activities, as specified in 904 KAR 2:006; or

(c) A fair hearing decision is pending on an issue of noncompliance with JOBS.

(8) Transportation payments in JOBS components. Transportation reimbursement shall be paid in the following situations:

(a) Precomponent;

(b) Component preparation;

(c) Component participation;

(d) Transitional extension; or

(e) On-the-job training (OJT) participants discontinued due to earned income or employment of 100 hours a month or more of the PWE in an AFDC-UP case.

(9) Transportation payments in self-initiated activities.

(a) Transportation shall be provided in the same situations as in JOBS components, with the exceptions of:

1. Transitional extension;

2. OJT participants discontinued due to increased earnings or hours of employment;

3. Component preparation; and

4. Precomponent, for persons waiting to enter self-initiated activities for the first time.

(b) Reimbursement shall be paid only for approved self-initiated activities.

(10) Transportation payment amount and authorization.

(a) A standard rate of three (3) dollars per day shall be paid for individuals participating in approved JOBS activities.

(b) Transportation reimbursement shall be made after receipt of appropriate verification. Departmental forms required for verification are incorporated by reference. Payments shall be made as specified in 904 KAR 2:050.

(c) Transportation payments shall be limited in the same manner as child care payments, as described in subsection (4)(g) of this section.

(d) In precomponent, transportation payments are limited to two (2) weeks up to one (1) month if necessary to guarantee that the arrangements shall not be lost.

(11) Restrictions on authorization of transportation payments. Payments shall not be made if:

(a) Appropriate verification is not returned by the end of the month following the month in which the cost was incurred;

(b) The participant is sanctioned for noncompliance with JOBS activities, as specified in 904 KAR 2:006; or

(c) A fair hearing decision is pending on an issue of noncompliance with JOBS.

(12) Other supportive services in JOBS components.

(a) Nonrecurring services shall be provided if necessary for participation in the approved JOBS activities of:

1. Component preparation;

2. Component participation;

3. Transitional extension;

4. Preemployment; or

5. OJT participants discontinued due to earned income or increased hours of employment.

(b) These services shall be approved by the case manager as defined in 904 KAR 2:006.

(c) Examples of services which may be approved are the purchase of:

1. Remedial health care items or services not covered under the Medicaid program;

2. Necessary clothing; or

3. Any other item identified by a referral agency, the case manager, or the participant as being necessary for participation.

(13) Other supportive services in self-initiated activities. Nonrecurring services shall be provided in the same situations as in JOBS components, with the following exceptions:

(a) Transitional extension;

(b) OJT participants discontinued due to increased earnings or hours of employment; or

(c) Component preparation.

(14) Limitations on other supportive services.

(a) A cumulative limit of $300 in a twelve (12) month period, beginning with the first day of the month in which the first supportive service payment is made, shall be in effect for any participant in these approved JOBS activities:

1. Component preparation;

2. Component-related;

3. Transitional extension; or

4. OJT participants discontinued due to increased earnings or hours of employment.

(b) A separate $300 limit, per job, for preemployment supportive services may be paid.

(c) Other supportive services shall be limited in the same manner as child care payments, as described in subsection (4)(g) of this section.

(15) Restrictions on authorization of supportive service payments. Payments shall not be made for the period during which:

(a) Verification is not returned by the service provider;

(b) The participant is sanctioned for noncompliance with JOBS activities, as specified in 904 KAR 2:006; or

(c) A fair hearing decision is pending on an issue of noncompliance with JOBS.

Section 9. Transitional Child Care (TCC). (1) Effective April 1, 1990, child care assistance shall be provided by the state to families whose eligibility for AFDC assistance has ceased due to:

(a) Increased hours of, or earnings from, employment; or

(b) As a result of the loss of income

disregards due to the expiration of the time limits at Section 4(3)(b) of this regulation.

(2) TCC shall be administered by the Cabinet for Human Resources, Department for Social Insurance through an interagency agreement with the Department for Social Services.

(3) Child care assistance shall be provided for children if the criteria in subsection (4) of this section are met.

(4) Technical eligibility. The following requirements shall be met during any month for which TCC is paid:

(a) The child(ren) is under age thirteen (13); or

1. Physically or mentally incapable of caring for himself, as verified by the state based on a determination of a physician or a licensed or certified psychologist; or

2. A dependent child under court supervision (if needy); or

3. Would be a dependent child except for the receipt of benefits under SSI under Title XVI or foster care under Title IV-E.

(b) Child care must be necessary in order to permit a member of an AFDC family to accept or retain employment;

(c) Payments are not made for care provided by parents, legal guardians or members of the assistance unit (including essential persons);

(d) The family shall have ceased to be eligible for AFDC as a result of increased hours of, or increased income from, employment or the loss of income disregards due to the time limitations at Section 4(3)(b) of this regulation;

(e) The family shall have received AFDC:

1. In at least three (3) of the six (6) months preceding the first month of ineligibility; and

2. At least one (1) of the three (3) months was received in the state of Kentucky.

(f) The family requests TCC benefits, provides the information necessary for determining eligibility and fees, and meets application requirements;

(g) The family ceased to be eligible for AFDC on or after April 1, 1990.

(5) Time limitations.

(a) Eligibility for TCC begins with the first month for which the family is ineligible for AFDC and continues for a period of twelve (12) consecutive months when the family requests assistance for TCC.

(b) Families may begin to receive child care in any month during the twelve (12) month eligibility period.

(6) Notification of eligibility. A family shall be notified of their potential eligibility for TCC when their AFDC benefits are terminated.

(7) Sanctions. The family is not eligible for TCC for any remaining portion of the twelve (12) month period if the caretaker relative:

(a) Terminates employment unless good cause exists as follows:

1. The individual is personally providing care for a child under age six (6) and employment will require the individual to work more than twenty (20) hours per week.

2. Child care is necessary for the individual to participate in the program or accept employment and such care is not available or the available child care does not meet the special needs of the child, e.g., handicapped or retarded child.

3. The individual is unable to engage in employment or training for mental or physical reasons including participation in a drug and alcohol rehabilitation program.

4. Unavailability of transportation with no readily accessible alternative means of transportation available.

5. Travel time to the work site exceeds two (2) hours daily.

6. Illness of another household member requiring the presence of the participant.

7. Temporary incarceration.

8. Discrimination by an employer based on age, race, sex, color, handicap, religious beliefs, national origin or political beliefs.

9. Work demands or conditions that render continued employment unreasonable, such as consistently not being paid on schedule or work presents a risk of the individual's health or safety.

10. Wage rates are decreased subsequent to acceptance of employment.

11. Acceptance of a better job which, because of circumstances beyond the control of the recipient, does not materialize.

12. Employment would result in a net loss of cash income.

(b) Fails to cooperate with the state IV-A agency in establishing payments and enforcing child support obligations, per 904 KAR 2:006, Section 11.

(8) Notices and hearings. Notices of adverse action, hearings, and appeals shall comply with the provisions of 904 KAR 2:046 and 904 KAR 2:055.

(9) Fee requirements. Each family receiving TCC shall be required to contribute toward the payment for child care based on the family's income.

(a) A minimum fee of one (1) percent of the family's gross income shall be charged for families who fall below the federal poverty income guidelines. A fee equivalent to seven and five-tenths (7.5) percent of gross income shall be charged for child care when the gross income exceeds the federal poverty guidelines as defined in 905 KAR 3:010 and 905 KAR 3:020.

(b) Individuals who fail to cooperate in paying required fees may, subject to notices and hearing requirements, lose eligibility for TCC for the period of time back fees are owed, unless satisfactory arrangements are made to make full payment.

(10) Recoupment. The following provisions apply to overpayments in TCC:

(a) Necessary action shall be taken promptly by the state IV-A agency to correct and recoup any overpayments.

(b) Overpayments, including assistance paid pending hearing decisions, shall be recovered from:

1. The responsible party;

2. The family unit which was overpaid;

3. The provider who was responsible for the overpayment;

4. Individuals who were members of the family when overpaid; or

5. Families which include members of a previously overpaid family.

(c) Overpayments shall be recovered through:

1. Repayment by the individual or child care provider to the cabinet; or

2. Reduction in child care payments; or

3. Reduction of AFDC benefits only upon a voluntary request of the recipient family.

(d) Repayment by the individual shall allow the recipient family to retain, for any month, a

reasonable amount of funds.

(e) Underpayments and overpayments may be offset against each other in adjusting incorrect payments.

(f) Benefits shall not be suspended, reduced, discontinued or terminated until a decision is rendered after a hearing as specified in 904 KAR 2:055 requested within the timely notice period.

Section 10. Recoupment. The following provisions are effective for all overpayments discovered on or after April 1, 1982, regardless of when the overpayment occurred.

(1) Necessary action will be taken promptly to correct and recoup any overpayments.

(2) Overpayments, including assistance paid pending hearing decisions, shall be recovered:

(a) The claimant;

(b) The overpaid assistance unit;

(c) Any assistance unit of which a member of the overpaid assistance unit has subsequently become a member; or

(d) Any individual member of the overpaid assistance unit whether or not currently a recipient.

(3) Overpayments shall be recovered through:

(a) Repayment by the individual to the cabinet; or

(b) Reduction of future AFDC benefits, which shall result in the assistance group retaining, for the payment month, family income and liquid resources of not less than ninety (90) percent of the amount of assistance paid to a like size family with no income in accordance with Section 7 of this regulation; or

(c) Civil action in the court of appropriate jurisdiction.

(4) In cases which have both an overpayment and an underpayment, the cabinet shall offset one against the other in correcting the payment to current recipients.

(5) Neither reduction in future benefits nor civil action shall be taken except after notice and an opportunity for a fair hearing as specified in 904 KAR 2:055 is given and the administrative and judicial remedies have been exhausted or abandoned in accordance with Title 904, Chapter 2.

[Section 11. Provisions contained in this regulation shall become effective February 1, 1991 [October 1, 1990].]

Section 11. [12.] Material Incorporated by Reference. (1) Forms necessary for verification of child care and supportive service payments in the JOBS program are incorporated effective October 1, 1990. **These forms include the PA-33, revised 10/90, the PA-33.1, revised 10/90, and the PA-32, revised 10/90.**

(2) These forms may be inspected and copied at the Department for Social Insurance, 275 East Main Street, Frankfort, Kentucky 40621. Office hours are 8 a.m. to 4:30 p.m.

MIKE ROBINSON, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: January 24, 1991
FILED WITH LRC: February 4, 1991 at 11 a.m.

REGULATIONS AMENDED DUE TO PUBLIC HEARING OR WRITTEN COMMENTS RECEIVED

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

401 KAR 6:310. Water well construction practices and standards.

RELATES TO: KRS 223.400 through 223.460, 223.991
STATUTORY AUTHORITY: KRS 223.420, 223.435, 224.020
NECESSITY AND FUNCTION: This regulation provides standards and requirements for the commercial practice of water well drilling. These requirements are necessary to ensure that the completed [complete] well provides an appropriate quality of product to the consumer while protecting the ground water resources of the Commonwealth. This regulation [furthermore] fulfills the mandate of KRS 223.435 to promulgate regulations establishing standards of practice for water well construction and of KRS 224.020 to protect water quality. [a requirement of law.]

Section 1. Definitions. The terms used in 401 KAR 6:320 and this regulation shall have the meanings given in KRS 223.400, 224.005, or in this section:

(1) "Abandoned" means a well unsuitable for its intended use that has been sealed or plugged to prevent entry of surface water and to prevent mixing of water from different aquifers.

(2) "Annular space" means the opening between a well-bore or excavation and the well casing or between a casing pipe and a liner pipe.

(3) [(2)] "Aquifer" means a water-bearing formation that transmits water in sufficient quantity to supply a well.

(4) "Bedrock" means any solid rock exposed at the surface of the earth or overlain by unconsolidated materials or soils.

[(3) "Cabinet" means the Natural Resources and Environmental Protection Cabinet.]

(5) [(4)] "Consolidated formation" means a geological formation which is [firm, such as] bedrock.

(6) [(5)] "Construction" means all acts necessary for obtaining ground water by wells, including drilling or excavation of the well and installation or modification of casing, but excluding the installation of permanent pumps and pumping equipment.

(7) [(6)] "Driller" means water well driller as defined in KRS 223.400.

(8) [(7)] "Established ground surface" means the elevation of the ground surface at the site of the well.

(9) [(8)] "Finished ground surface" means the final or permanent elevation of the ground surface at the site of the well.

(10) "Impervious [material]" means any material which will not permit the passage of water at a rate greater than 1×10^{-7} centimeters per second (cm/sec) (e.g., clay).

(11) [(9)] "Modification" means any change, replacement, or other alteration of the water well. This includes, but is not limited to deepening of a well, replacing or repairing a casing, replacing [repair] or repairing a [replacement of] well screen, installing [installation of] a pitless adapter and any other changes of a well structure. Bailing and pump replacement are not modifications.

(12) "Monitoring well" means a well constructed when the actual or intended use in whole or part is the removal of water for the purpose of sampling, measuring or test-pumping for scientific, engineering or regulatory purposes.

(13) [(12)] "Pitless well adapter" means a device designed for attachment to one (1) or more openings through a well casing. It shall be constructed so as to prevent the entrance of contaminants into the well through the opening, protect the water supply lines and plumbing from freezing and provide access to water system parts within the well.

(14) [(13)] "Pitless well unit" means an assembly which extends the upper end of the well casing to above the finished ground surface. It shall be constructed so as to prevent the entrance of contaminants into the well, conduct water from the well, protect the water lines from freezing, and shall provide full access to the well and to water system parts within the well.

(15) [(14)] [(10)] "Pumping water level" means the elevation of the water surface in a well when water is discharged during pumping.

(16) [(15)] "Rig operator" means any individual under supervision of a driller for whom an application has been submitted and who has been given a rig operator card from the cabinet and who may from time to time be in charge of well construction in the driller's absence.

(17) [(16)] "Rig operator card" means an identification card provided to a rig operator by the cabinet after a certified driller has submitted an application requesting a card for the rig operator.

(18) [(17)] [(11)] "Static water level" means the level at [of] which water stands in a well when no water is being taken from the aquifer either by pumping or by free flow.

(19) [(18)] [(12)] "Unconsolidated formation" means a geological formation [above bedrock,] such as sand or gravel, which has a tendency to cave in under natural conditions.

(20) [(19)] "Well unsuitable for its intended use" means a well:

(a) The use of which has been permanently discontinued;

(b) Which is in such a state of disrepair that it cannot be used to supply groundwater;

(c) Which presents a health hazard;

(d) From which groundwater for useful purposes is not obtainable; or

(e) Bore-holes which:

1. Are dry;

2. Have caved in; or

3. Are unsuitable for further development and well construction.

Section 2. Scope. This regulation provides minimum standards for location, construction and modification of water wells [as defined in Kentucky Revised Statutes, Chapter 223]. [After the effective date of this regulation,] No water well [or monitoring well] [as defined above] shall be constructed

or modified contrary to the provisions contained in this regulation. Sections 3 through 12 of this regulation apply to water wells except monitoring wells. Section 13 of this regulation applies to monitoring wells. [herein.]

Section 3. General Requirements. (1) Certified driller required. All water wells subject to this regulation shall be constructed only by persons having a valid certificate issued in accordance with KRS [under Kentucky Revised Statutes, Chapter 223, Sections] 223.400 through 223.460 and 401 KAR 6:320, or by persons under [in] the supervision [employ] of [such] certificate holders and having a rig operator card.

(2) Reports. Within thirty (30) days after a water well has been constructed or modified, the driller shall submit a report of construction to the cabinet [on such forms as are prescribed and furnished by the cabinet]. The report shall be submitted on the form entitled Kentucky Water Well Record (DEP-4045).

(3) Variance.

(a) If conditions are believed to exist at [of] a proposed installation site which preclude compliance with the requirements of this regulation, the driller may request a variance by submitting to the cabinet a Kentucky Water Well Variance Request Form (DEP-6036) [written request] outlining a specific proposal to be used in lieu of compliance with this regulation. The request shall include a thorough description of the site (lot size, the location of sewers, septic tanks, buildings, seepage fields, and other sources of contamination on the property and adjacent property with distances shown to the proposed well), the section number and brief summary of the provisions for which a variance is requested, and a complete justification as to why [the cabinet should approve] the variance is needed and how the alternate standard ensures the protection of the quality of the groundwater and the protection of public health and safety. The driller shall give special emphasis [should be given] to ensuring the protection of the public's health and safety. The driller shall provide a description of site-specific **geologic** [geological] and soil conditions [shall also be included]. The cabinet **shall** [will] notify the applicant in writing **within thirty (30) days** of its decision either to grant or deny the variance based upon a determination by the cabinet that the proposed variance shall ensure the protection of the quality of the groundwater and protection of the public health and safety. The driller shall request a variance and shall obtain approval [shall be requested and approved] before well construction begins. In case of an emergency, where the delay incurred due to the above-described variance procedure would cause undue hardship or loss of life to the intended user, the driller may obtain an oral variance, provided the above-listed information is provided to the cabinet within fifteen (15) days of the date such oral variance is issued.

(b) After any variance is issued regarding the location of a well with respect to various contamination sources in Section 6 of this regulation, the driller for which a variance has been issued[, the driller] shall take two (2) water samples from the well and have them analyzed for fecal coliform at a cabinet-approved laboratory. [(A listing of these laboratories is available on request. Other laboratories may be approved by the cabinet on a case-by-case basis.)] The cabinet may require analysis for other water quality parameters which may [might reasonably be expected to] exist in conjunction with the source of potential pollution as [if] necessary to protect the health or safety of potential users. At the time the variance is approved, the cabinet **shall** [will] notify the driller as to what these parameters will be. One (1) sample shall be taken within thirty (30) days and the second sample shall be taken within sixty (60) days, but not less than thirty (30) days, after completion of the well.

(c) Examples of location problems which could preclude compliance with this regulation would be where the proposed location of a well is too close to septic tanks, buildings, sewer lines, or barnyards as indicated in Table A.

(d) Examples of public health and engineering principles that **may** [will] be considered in issuing a variance are ground surface conditions, depth of the water table, the location of sources of pollutants [contamination], the vulnerability [ability] of the aquifer [existing soil] to [remove] bacteria and other pollutants, and the geologic conditions at the site.

(4) Water sampling. All water samples [pursuant to KRS 223.400 et seq. or this regulation] shall be delivered to the laboratory within six (6) hours of the time they are taken and shall be kept at four (4) degrees centigrade (or forty (40) degrees Fahrenheit) during that time, but shall not be frozen. Containers for the water samples shall be sterile glass or plastic. However, drillers may obtain approval from the cabinet to perform fecal coliform analyses (except those required for variance approval) if [provided] they can demonstrate to the cabinet that they are capable of providing an accurate analysis. [The cabinet will approve the variance if the proposal is in accord with accepted public health and sanitary engineering principles and practices, and if the resulting water well pump installation can be expected to provide a continuously safe and sanitary water supply.]

(5) Display of certificate number. Drillers shall have their certificate numbers permanently affixed and prominently displayed on all drilling equipment used at construction sites. The certificate number shall be inscribed in the following manner: KY.CERT. XXXX-XXXX (insert certificate number in place of the X's). Numbers shall be at least three (3) inches in height and of a color that is easily distinguishable from that of the equipment. This number shall be removed if equipment is scrapped, sold, or otherwise changes ownership or if the driller's certificate becomes invalid.

(6) The documents listed in paragraphs (a) and (b) of this subsection are adopted and filed herein by reference. Copies of these documents may be obtained from the Natural Resources and Environmental Protection Cabinet, Division of Water, 18 Reilly Road, Frankfort, Kentucky 40601, (502) 564-3410. The material is available for public inspection and copying during business hours of 8 a.m. to 4:30 p.m. at the Division of Water, Frankfort Office Park, 18 Reilly Road, Frankfort, Kentucky 40601, (502) 564-3410.

(a) Kentucky Water Well Record (DEP-4045)

(September 15, 1987); and

(b) Kentucky Water Well Variance Request Form (DEP-6036) (January 1, 1991).

Section 4. Design Factors. The driller shall design [of] each well to [shall] include the following:

(1) Natural protection. Location of the well shall include use of every natural protection available to promote sanitary conditions.

(2) Geological formations. The well construction shall be adapted to the local or site-specific geologic formations and ground water conditions [at the site].

(3) Undesirable geological formations. Water bearing formations shall be prevented from contributing to a well [excluded] by installing casing or a liner and properly sealing when such formations contain undesirable water or when the primary purpose for the well is to withdraw water from a deeper formation.

(4) Capacity. The well shall be constructed with the capacity [Capability of the well] to produce as much quantity of the desired water [quantity] as the aquifer or aquifers can safely furnish.

(5) Durability. Construction methods and materials shall provide a durable well capable of maintaining safe water and protecting the aquifer over its useful lifetime and until the well is properly [sealed and] abandoned.

(6) Pitless well adapters. No well casing shall be cut off or cut into below ground surface except by a driller to install a pitless well adapter or pitless well unit. The well casing shall extend at least four (4) inches above established ground surface. If practicable, the well casing shall extend above any known conditions of flooding or run-off from the surrounding land after installation of a pitless well adapter or pitless well unit. Construction or installation of [.] pitless well adapters or pitless well units shall be done in such a manner to provide a leak-proof seal [shall comply with the requirements of the National Sanitation Foundation (NSF) Standard Number C-8, entitled Pitless Well Adapters, May 1970 edition and shall bear the NSF seal].

Section 5. Location. (1) General. In establishing the location of a well, the driller shall consider [give the consideration to] sources of pollutants [contamination] which exist on or adjacent to the premises where the well is to be located. As far as possible, the well shall be located on ground which is higher than sources of pollutants [contamination] and shall have ready access for repairs, maintenance, treatment and inspection.

(2) Relation to sources of pollutants [contamination]. In establishing [Determination of] minimum lateral distances to locate a well from potential sources of pollutants, the driller shall consider [contamination involves evaluation of] the character and location of the sources of pollutants [contamination], types of geologic formations present, depth to the aquifer, direction of ground water flow, effect on the ground water movement by well pumping and possibilities of flooding of the site by surface waters. Sources of pollutants [contamination] such as streams, refuse disposal sites, excavations, waste treatment facilities, buried oil and gasoline storage tanks, improperly constructed wells and cisterns shall be evaluated and a distance determined based on the pertinent facts.

(a) The minimum lateral distances shown in Table A shall apply for the sources of pollutants [contamination] listed [therein].

(b) When the upper formations are composed of materials with a permeability of 1×10^{-3} centimeters per second or greater, [more pervious than clay or loam,] the lateral distances in Table A shall be doubled [increased (i.e. double the distance for highly pervious gravel formation)].

(3) Flood water. The construction of wells in locations subject to flooding shall [should] be avoided. If no reasonable alternate site exists, wells may be constructed in flood zones only if water-tight construction is provided. If practicable, [provided special protective construction is included.] the casing of the well shall [should] terminate not less than two (2) feet above the maximum known flood elevation. [In all instances, the casing shall terminate sufficiently above grade or above any known conditions of flooding by drainage or run-off from surrounding land.]

(4) Relation to building. With respect to buildings, pits, and basements, the location of a well shall be as follows:

(a) Adjacent to building. When a well must be located adjacent to a building, it shall be so located that the center line of the well extended vertically will clear any projection from the building by not less than five (5) [two (2)] feet.

(b) Pits and basements. New wells shall not be constructed in pits or basements.

Section 6. Drilled Wells in Unconsolidated Formations. (1) General. [Unconsolidated formations such as sand and gravel may extend to or near the ground surface. Generally, however, they lie below the ground surface at varying depths and are covered by an overburden of earth. The kind, nature and depth of the overburden are factors in determining how a well shall be constructed.]

[(2) Unconsolidated formations with nonstable overburden.] In wells constructed in unconsolidated formations which extend the full depth of the well, including the screened area, the driller shall install [have] a permanent casing, [installed] governed by the pumping level in the finished well. For pumping levels greater than twenty (20) feet below the ground surface, the driller shall install casing that [shall] extends five (5) feet below the pumping level. For pumping levels twenty (20) feet or less below the ground surface, the driller shall install casing that [shall] extends ten (10) feet below the pumping level. Under no conditions shall a driller install [there be] less than twenty (20) feet of permanent casing, excluding the screened interval. The driller shall fill the annular space between the casing and the drill hole. This may be accomplished by constructing an upper drill hole having a diameter four (4) inches greater than the inner diameter of the casing to be installed and extending to a depth of at least twenty (20) feet. The driller shall seal the upper drill hole with impervious drill cuttings, native clay, bentonite, or a neat cement-bentonite slurry after the casing is in place. Cable-tool drilling may accomplish proper seal through dry bentonite application while driving casing.

[installed. (See Illustration A.)]

[(3) Unconsolidated formations with stable overburden. Wells constructed in geological formations such as sand and gravel which lie below clay, glacial till or other relatively stable soil shall have a casing installed governed by the pumping level. For pumping levels greater than twenty (20) feet, the casing shall extend five (5) feet below the pumping level. For pumping levels twenty (20) feet or less, the casing shall extend ten (10) feet below the pumping level. Under no conditions shall there be less than twenty (20) feet of permanent casing installed. Since the stable overburden cannot be expected to form a continuous contact seal with the casing, sealing of the annular opening between the casing and the drill hole must be effected. This can be accomplished by constructing an upper drill hole having a diameter four (4) inches greater than the inner diameter of the casing to be installed and extending to a depth of at least twenty (20) feet. The upper drill hole shall be sealed with drill cuttings, clay slurry or cement grout after the casing is in place. (See Illustration B.)]

(2) [(4)] Gravel pack construction. When an oversized drill hole (i.e., more than four (4) inches greater than the inside diameter of the casing [nominal diameter]) is constructed to permit the placement of a gravel pack around the well screen, the driller shall seal the annular space [opening] between the casing and drill hole [shall be sealed] in the top twenty (20) feet or twenty (20) feet below the point of pitless adapter attachment with impervious drill cuttings, native clay, a [concrete or] neat cement-bentonite slurry [grout] or bentonite. If a permanent outer casing is installed, the driller shall extend the outer casing [it shall extend] to a depth of at least twenty (20) feet and, depending on the formations present, seal the annular space [opening] between the drill hole and the outer casing [shall be sealed] with impervious drill cuttings, native clay [slurry], bentonite, or a neat cement-bentonite slurry [grout]. The driller shall seal the annular space [opening] between inner and outer casings [shall be sealed] to prevent the entrance of pollutants [contamination] from the surface. [(See Illustration C.)]

(a) All gravel placed in the well shall be clean, washed and disinfected prior to placement or provisions made for disinfection in place.

(b) Gravel refill pipes may be installed if they terminate above established ground surface and are provided with watertight caps.

(c) In wells designed for placement of an artificial gravel pack, the driller shall [be] provide[d with] an adequate screen having openings sized on the basis of the grain size of the gravel. The driller shall develop the well [shall be developed] to ensure free entry of water without sediment.

(d) Under no circumstances shall the gravel pack extend to any closer than twenty (20) feet of the established ground surface.

Section 7. Drilled Well Construction in Consolidated Formations. (1) Where the soil overburden is [less than] thirty (30) feet or less in thickness, the driller [well casing] shall drive or otherwise provide a watertight seal [extend] to a depth of at least twenty (20) feet below ground level and at least ten (10) feet into [firm] bedrock. The diameter of the drill hole shall be a minimum of one and three-quarter (1 3/4) [two (2)] inches greater than the inner diameter of the casing. The driller shall fill the annular space [shall be sealed] with a neat cement-bentonite slurry [grout], bentonite, native clay, impervious drill cuttings, or a mechanical packer in combination with one (1) or more of the above materials. The driller shall install plastic casing as required in subsection (7) of this section.

(2) Where the soil overburden is greater than thirty (30) feet in thickness, [and] the driller shall install the casing to a watertight seal, a minimum of two (2) feet into stable rock. When the casing is driven, the driller shall fit the casing with a drive shoe and drive the casing to a watertight seal. The driller shall seal the [shall be fitted with a drive shoe, when driven, and shall be driven to a firm seat in the limestone or dolomite and the] annular space around the casing [through the soil overburden sealed] with impervious drill cuttings, native clay [slurry], bentonite, a neat [or] cement-bentonite slurry or a mechanical packer in combination with one (1) or more of the above materials. The driller shall install [grout. (See Illustration E.)] plastic casing [shall be installed] as required in subsection (7) [(5)] of this section.

(3) Where the well is drilled to obtain water from the bedrock, beneath a thick (greater than thirty (30) feet) overburden of soil or unconsolidated formations which are unstable and will settle back around the casing, the driller shall drive the well casing to a watertight seal. In instances where a temporary surface casing must be installed to stabilize the bore-hole and in order to facilitate drilling and permanent casing installation, the driller shall fill the annular space around the well casing with impervious drill cuttings, bentonite, a neat cement-bentonite slurry or native clay to a depth of at least twenty (20) feet. The driller shall not install plastic casing under these conditions.

(4) [(3)] Where the well is drilled to obtain water from a lower formation the driller shall extend the casing [shall extend] at least two (2) feet below [through] any creviced formation or fractured formation encountered and drive or install the casing watertight into stable [be seated in form] bedrock. The diameter of the drill hole through the creviced formation shall be a minimum of one and three-quarter (1 3/4) [two (2)] inches greater than the inner diameter of the casing. The driller shall seal the annular space [shall be sealed] with a neat cement-bentonite slurry [grout], bentonite, native clay, impervious drill cuttings, or a mechanical packer in combination with one (1) or more of the above materials. Where an outer casing is left in place, the driller shall seal the annular space between the casings [shall be cement grouted or the annular opening around the outer casing shall be sealed] with impervious drill cuttings, native clay [slurry], bentonite, a neat cement-bentonite slurry [grout], or a mechanical packer in combination with one (1) or more of the above materials. In instances where voids are encountered, the driller shall extend the casing a minimum of two (2) feet into stable rock [at depth, an effective seal must be installed] below the lowermost void and shall

seal the annular space with impervious drill cuttings, bentonite, a neat cement-bentonite slurry, clay or a mechanical packer in combination with one (1) or more of the above materials. [(See Illustration D.)]

(5) [(4)] Flowing artesian well. All flowing artesian wells shall be shut in. The driller shall install casing [shall be installed] to eliminate flow in the annular space and shall seal the annular space [opening] between drill hole and casing [sealed] with a neat cement-bentonite slurry [grout], bentonite, native clay, impervious drill cuttings, or a mechanical packer in combination with one (1) or more of the above materials.

(6) In all wells where the casing is driven, the driller shall not use plastic casing.

(7) [(5)] Plastic casing installations. When plastic well casing is installed, the drill hole shall be a minimum of two (2) inches greater than the inner diameter of the casing. The driller shall clean the pipe spigot and socket [shall be cleaned] and treat[ed] it with a cleaner-primer. The driller shall solvent cement the joints [shall be solvent cemented] with a quick-setting cement, or thread[ed] and couple[d] the joints. Other types of joints may be evaluated and approved by the cabinet. The driller shall cement a coupling [shall be cemented] on the bottom of the casing to stabilize it in the hole or use centralizers [used]. The driller may use a steel nipple five (5) to ten (10) feet long [may be used] on the bottom of the casing in lieu of the coupling when the well will be continued by drilling out through the bottom of the casing. In [rock] wells completed in consolidated formations, the driller shall set the casing [shall be set] into [the] bedrock a minimum of ten (10) feet where the overburden is [less than] thirty (30) feet or less in thickness and a minimum of two (2) feet where the overburden is greater than thirty (30) feet in thickness to prevent leaking around the end of the casing. In wells in bedrock where the well will be drilled to total depth before casing is installed, the driller shall install [In areas where the water is obtained at the rock surface, the casing shall be set at or just above the rock.] a watertight mechanical [formation] packer at [shall be installed just above] the bottom of the lowermost string of casing. The driller shall seal the annular space [opening] between the casing and wall of the drill hole [shall be sealed] with at least five (5) feet of bentonite immediately above the packer. The driller shall fill the annular space above the bentonite seal with impervious drill cuttings, native clay, bentonite, or a neat cement-bentonite slurry. [slurry or neat cement grout.]

(8) In areas where the overburden is at least fifteen (15) feet thick and water can only be obtained at or just above the rock surface, the driller shall set the casing at or just above the rock. Under these conditions, the driller shall seal the lowermost part of the annular space between the casing and wall of the drill hole with a minimum of two (2) feet of bentonite. The driller shall fill the remaining annular space above the bottom seal to the surface with a neat cement-bentonite slurry, bentonite or impervious clay. There shall be no less than twelve (12) feet of overburden from the ground surface to the bottom of the seal. If the casing is to be slotted or a screen installed, the driller shall not extend the slotted section above the bottom of the bentonite or cement seal. If water is encountered in drilling into the rock to develop a reservoir, the driller shall choose which water source is to be used and seal off all others.

Section 8. Special Type Wells. (1) General. Wells in this classification are dug, bored, driven, and radial collector. The choice of any one (1) of these as opposed to a drilled well is largely dictated by the characteristics of the water-bearing formations or aquifers in the local areas.

(2) Bored or dug well - well not finished with buried slab. Bored or dug wells that are not finished as buried slab wells shall comply with the following [(see Illustration F)]:

(a) Annular space [opening]. The driller shall grout the open space between the excavation and the installed casing [shall be grouted] with concrete. The driller shall pour the concrete [shall be] a minimum of six (6) inches thick and [be poured] without construction joints from the ground surface to a minimum of ten (10) feet below ground level. The driller [contractor] shall be responsible for the installation of the concrete grout. The driller shall insure that the diameter of the well bore below the grouting is [shall be] a minimum of four (4) inches greater than the outside diameter of the well casing and is [shall be] filled with a [pea] gravel pack from [to] the well bottom to the water-producing formation and with impervious material from the top of the gravel pack to the bottom of the concrete grout. The driller shall not extend the gravel pack any closer than ten (10) feet of the ground surface.

(b) Upper terminal. The driller shall extend the casing [shall extend] at least eight (8) inches above finished ground surface. The [A] driller shall provide a cover slab at least four (4) inches thick, adequately reinforced and having a diameter sufficient to extend to the outer edge of the casing [shall be provided]. The slab shall be constructed without joints. The driller shall slope the top of the slab [shall be sloped] to drain to all sides and shall provide a watertight joint [made] where the slab rests on the well casing. If a manhole is [, if] installed, the driller shall insure that the manhole [shall] consists of a curb cast in the slab [and] extending four (4) inches above the slab. The driller shall provide [manhole shall have] a watertight cover having sides which overhang the curb at least two (2) inches for any manhole.

1. If installing a vent [is installed], the driller shall provide a vent that [it shall] consists of pipe extending above the slab with the open end turned down and not less than six (6) inches above the slab. The driller shall cover the open end [shall be covered] with twenty-four (24) mesh or finer screen of durable material. [Venting is recommended.]

2. The driller shall cast in place adequate sized pipe sleeve or sleeves [shall be cast in place] in the slab to accommodate the type of pump or pump piping proposed for the well.

(3) Bored or dug well - buried slab construction. The driller shall terminate the well casing [shall be terminated] at a depth of ten (10) feet or more below the ground surface. The driller shall use well casing meeting [shall

meet] the requirements in Section 9 of this regulation. The driller shall firmly imbed or connect the casing [This casing shall be firmly imbedded in or connected] to a pipe cast in a reinforced buried concrete slab. The casing shall be a minimum of four (4) inches in diameter and extend from the concrete slab to at least eight (8) inches above finished ground surface. The driller shall fill the annular space [opening] between the casing pipe and the well bore [shall be filled] with clean impervious material [earth] thoroughly tamped to minimize settling. The driller shall make the diameter of the well bore below the buried slab [shall be] a minimum of four (4) inches greater than the outer diameter of the well casing. The driller shall fill the well bore [and shall be filled] with a [pea] gravel pack from [to] the well bottom to the water table and with impervious material from the top of the gravel pack to the bottom of the concrete slab. The driller shall not extend the gravel pack any closer than ten (10) feet of the ground surface. [(See Illustration G.)]

(4) Driven well. The well point, drive pipe and joints shall be structurally suitable to prevent rupture or distortion during the driving of the well. The driller shall construct the top ten (10) feet of the hole to a diameter of at least two (2) inches greater than the inner diameter of the drive pipe. The driller shall fill the annular space around the drive pipe with impervious material. [If aids to driving are used, such as an augered starting hole or water jetting, the annular space around the drive pipe shall be sealed with cement grout or puddled clay.] The type of pump proposed for the well will determine how the top ten (10) feet or more of the well shall be completed. If the working barrel of a hand pump is to be located below ground surface, the driller shall enclose the upper portion of the well [shall be enclosed] in steel or iron casing pipe to a point below the barrel. So called "frost pits" curbed with stone, brick, tile, or other materials [etc.,] shall not be installed [are prohibited].

(5) Radial collector well. Approval [Approved] of plans for the well shall be obtained from the cabinet before construction. Factors that shall [will] be considered for approval of a radial collector well [will] include depth of well, types of soil formations, location of well and sources of potential contamination in the surrounding area.

Section 9. Construction Materials and Other Requirements. (1) Casing and liner pipe. In selection of casing and liner pipe, the driller shall consider [consideration shall be given to] the stress to which the pipe will be subjected during construction and the corrosiveness of the water with which it comes in contact. The driller shall install steel or plastic casing, except for bored or dug wells, which the driller shall construct in accordance with Section 8 of this regulation and except for monitoring wells, which the driller shall construct in accordance with Section 13 of this regulation. The driller shall install all pipe and casing in accordance with manufacturer's specifications. The driller shall not install used or rejected casing or pipe shall not be used.

(a) The driller shall install steel well casing that [shall meet one (1) of the following standards: American Society For Testing Materials (ASTM) A-53-81A, A-120-82, A-589-81A, or American Petroleum Institute 5L, March, 1982 Edition] [and] conforms to the minimum standards given in Table B; or [.]

(b) The driller shall install plastic well casing and liners that [shall] meet the requirements given in Table C [of ASTM Standard F-480-81 and the National Sanitation Foundation Standard Number (NSF) 14-1980, Plastic Piping System Components and Related Materials]. Evidence of compliance shall be [inclusion in the current NSF listing and] display of the National Sanitation Foundation [NSF] seal on each section of casing[, and marking the casing in accordance with the requirements of ASTM Standard F-480-81].

(c) The driller shall install plastic well casing and liners that are [must be] Standard Dimension Ratio (SDR) rated, have an minimum impact classification of IC-1 [in accordance with ASTM Standard F-480-81 as a minimum], and conform to the minimum requirements given in Table C.

(2) Outer casing. The driller shall install casing, intended for construction purposes only, that is [shall be] of weight and design as necessary to be watertight and permit installation without distortion or rupture to the specified depth. The driller shall remove the outer casing [, and shall be removed] upon completion of the well.

(3) Joints. The driller shall insure that all casing and liner pipe joints are [shall be] watertight.

(4) Screens or perforated or slotted casing. The driller shall install screen or perforated or slotted casing openings that [shall] provide the maximum amount of open area consistent with strength of screen or casing and the grading of the water-bearing formation or gravel pack. The driller shall install materials with openings that [shall] permit maximum transmitting ability without clogging or jamming and are sized to provide sediment-free water to the well. Screens shall be made of noncorrosive material.

(5) Drive shoe. The driller shall equip the pipe that is to be driven [shall be equipped] with a drive shoe. The driller may use a collar or coupling for light driving. No driller shall drive plastic casing.

(6) Grouting guides. The driller shall provide a centering shoe for protective casing that is to be grouted in the drill hole or annular space. The driller [opening shall be provided with a centering shoe and] shall provide [have] sufficient guides or centralizers to permit the unobstructed flow and deposition of the thickness of grout specified.

(7) Cement grout. The driller shall use the procedures and materials for preparing and placing cement grout that [shall be as] follow:

(a) Concrete grout. The driller shall mix [mixture shall consist of] cement, sand, and water in the proportion of one (1) bag of cement (ninety-four (94) pounds) and an equal volume of dry sand to not more than six (6) gallons of clean water.

(b) Neat cement grout. The driller shall mix [mixture shall consist of] one (1) bag of cement (ninety-four (94) pounds) to not more than six (6) gallons of clean water. [Additives such as bentonite or aquajel or similar materials may be added up to six (6) percent by weight to increase fluidity and to control shrinkage.]

(c) Neat cement-bentonite slurry. The driller shall mix one (1) bag of cement, (ninety-four (94) pounds) to seven and one-half (7 1/2) gallons of clean water and two (2) to six (6) percent bentonite (by weight two (2) to six (6) pounds) to increase fluidity and to control shrinkage.

(d) [(c)] Application. The driller shall perform all cement grouting [shall be performed] by adding the mixture from the bottom of the annular space [opening] upward in one (1) continuous operation until the annular space [opening] is filled or to the point of pitless adapter attachment. The driller may add bentonite, aquajel, or similar materials [may be added] to the annular space [opening] in the manner indicated for grouting, prior to the cement grouting, to seal any small crevices or fissures and assure that the annular space is open.

(e) [(d)] Setting time. The driller shall not resume drilling operations [shall not be resumed] until the cement grout has set and hardened for at least forty-eight (48) hours when high-early-strength cement is used and at least seventy-two (72) hours when regular cement is used. The driller may reduce setting time [may be reduced] from forty-eight (48) hours with high-early-strength cement and seventy-two (72) hours with regular cement by addition of manufacturers' approved chemicals and following manufacturers' recommendations for setting time.

(8) Plumbness and alignment. The driller shall ensure that the bore of the hole is [shall be] sufficiently plumb and straight to receive the casing without binding. The driller shall ensure that the casing is [shall be] sufficiently plumb and straight that it will not interfere with installation and operation of the pump.

(9) Construction water. The driller shall obtain water used in the drilling process [shall be obtained] from a source which will not result in the introduction of pollutants into [contamination of] the well.

(10) For air rotary drilling, the driller shall inject water [shall be injected] into the air stream at the rate of approximately three (3) gallons per minute.

(11) Drill cuttings. The driller shall use drill cuttings that are impervious to fill the annular space of a well [that are impervious material] to prevent surface water from percolating down the drill hole.

(12) The driller shall not use any material containing lead in constructing a water well.

Section 10. Finishing and Testing. (1) Upper terminal. The driller shall terminate the casing or riser pipe [shall be terminated] at a height above established ground surface consistent with proposed plans for a pump house and pump installation, but not less than four (4) inches above finished ground surface. If practicable, the driller shall not install casing less than two (2) feet [or] above any known conditions of flooding by drainage or run-off from the surrounding land. The driller shall fit the well with a well cap or sanitary seal upon completion of the well and prior to departure from the well site. The driller shall compact and grade the ground surface surrounding the well to drain water away from the well. [shall be capped watertight until pump installation is made.]

(2) Disinfection. For all wells except monitoring wells, the well driller shall disinfect all wells [be responsible for properly disinfecting the well] upon completion of the driller's work. The driller shall introduce sufficient chlorine [shall be introduced] to give a concentration [dosage] of at least 100 parts per million to the water in the well. (CAUTION: When working with chlorine, persons should be in [well] ventilated place. The powder or strong liquid should not come in contact with skin or clothing. Solutions are best handled in wood, plastic or crockery containers because metals are corroded by strong chlorine solutions.)

(a) Drilled wells. The driller shall disinfect the well [disinfection of drilled wells shall be accomplished] in accordance with the following:

1. Determine the amount of water in the well by multiplying the gallons per foot (from Table D) by the number of feet of water in the well.

2. For each 100 gallons of water in the well, use the amount of chlorine liquid or compound given in Table D. Mix this total amount in about ten (10) gallons of water. If dry granules or tablets are used, they may be added directly to drilled wells.

3. The total amount of this solution shall be poured into the top of the well before the seal is installed and splashed around the lining, or wall, of the well. Ensure that the solution has contacted all parts of the well.

4. Where the driller installs a pump, the driller shall connect one (1) or more hoses from faucets on the discharge side of the pressure tank to the top of the well casing and start the pump, recirculating the water back into the well for at least fifteen (15) minutes. Then open each faucet in the system until a chlorine smell is evident [appears]. Close all faucets. Seal the top of the well.

5. Let stand for several hours, preferably overnight.

6. After standing, operate the pump, discharging water from all outlets until all chlorine odor disappears. Faucets on fixtures discharging to septic tank systems shall [should] be throttled to a low flow to avoid overloading the disposal system.

7. Where no pump is installed, the well shall be bailed until all chlorine odor disappears before sampling.

(b) Dug wells. The driller shall disinfect the well [disinfection of dug wells shall be accomplished] in accordance with the following:

Diameter of well (in feet)	3	4	5	6	7	8	10
Amount of 5.25% laundry bleach to use per foot of water (in cups)	1.5	3	4.5	6	9	12	18
Amount of 70% Hypochlorite granules to use per foot of water (in ounces)	1	2	3	4	6	8	12

1. The amount of disinfectant required is determined primarily by the amount of water in the well. Using Table E, calculate [The table above shows] the amount of chlorine that must be added [to use] for each foot of water in the well, according to its diameter.

2. To determine the exact amount of bleach to use, multiply the amount of disinfectant

indicated as determined by the well's diameter times the number of feet of water.

3. This total amount of bleach shall be added to approximately ten (10) gallons of water, and splashed around the lining, or wall of the well. Be certain that the solution has contacted all parts of the well, using the entire amount of disinfectant. Seal the top of the well.

4. When this is done, pump enough water so the strong chlorine odor is evident. When the odor is detected, stop the pumping and allow the solution to remain in the well overnight.

5. After standing, operate the pump, discharging water from all outlets until a colormetric test indicates the absence of chlorine [all chlorine odor disappears]. Faucets on fixtures discharging to septic tank systems shall be throttled to a low flow to avoid overloading the disposal system.

(c) Water samples. Upon completion and disinfection of a new well or modification of an existing well, the driller shall be responsible for having the well tested for fecal coliform if the well is for potable use. The driller shall also give the owner information prepared by the cabinet explaining the importance of water well sampling, procedures for sampling, and how the water can be tested to assure a safe supply of water. The water sample shall not be taken until all chlorine has been removed from the well.

Section 11. Modification of Wells. (1) General. Wells constructed prior to the effective date [adoption] of this regulation need not meet its provisions [the criteria established]. However, when a well is modified, reconstructed, or repaired, the work shall include those changes necessary to make the well conform to this regulation [section].

(2) Well pits.

(a) No new well pits shall be allowed. [Existing well pits shall not be altered or changed.]

[(b) Existing pits will be accepted if the following conditions exist:]

[1. The pit shall be structurally sound and watertight. The casing shall extend at least twelve (12) inches above the pit or basement floor and have a well seal to prevent contaminants from entering the well.]

[2. A watertight manhole and cover must be provided for the pit.]

(b) [(c)] No person shall modify existing well pits. Any person modifying a well shall eliminate existing well pits. The driller shall extend the casing a minimum of four (4) inches above the finished ground surface. Any flooring and the walls [shall be modified to comply with subsection (2)(b) of this section. Existing pits which are not in compliance with subsection (2)(b) of this section shall be eliminated and the floor or one (1) wall] of the pit shall be broken and [or] removed and the pit shall be filled with compacted earth.

(3) Notification. Within thirty (30) days after modification of a well, the driller shall provide written notification of the modification to [on forms provided by] the cabinet. The notification shall be submitted on the form entitled Kentucky Water Well Record (DEP-4045), incorporated in Section 3(6) of this regulation.

Section 12. Abandoned [Abandonment of] Wells. (1) General. If [In cases where] a constructed water well is not suitable for its intended purpose and is to be abandoned, or if a well is drilled too [where a landowner employs a driller to] close to a previously constructed well [the driller shall completely fill the well in such a manner that the vertical movement of water within the annular space, is effectively and permanently prevented.] the owner shall ensure that the abandonment procedures are implemented as soon as possible, but no later than thirty (30) calendar days after completion of the well or after the owner has made the decision that the uncompleted well or previously constructed well is not to be used. The driller shall ensure that the well is completely filled in such a manner that the verticle movement of water within the annular space is effectively and permanently prevented. [Abandoned wells. In cases where a constructed water well is not suitable for its intended purpose and is to be abandoned, or where a land owner employs a driller to close a previously constructed and abandoned well, these abandoned water wells shall be completely filled with disinfected, dimensionally stable materials, compacted mechanically, if necessary, to avoid later settlement. Cement grouts and concrete do not require disinfection. Disinfection of fill materials shall be accomplished by using chlorine compounds such as sodium hypochlorite or calcium hypochlorite. Fill materials shall be clean (relatively free of clays and organic materials) before placement in the well. Disinfection shall be accomplished by dissolving sufficient chlorine compound to produce a calculated concentration of at least 100 parts per million (100 ppm) available chlorine in double the volume of water in the well. The fill material shall be placed in the well after the water in the well has been so treated.]

(a) Preparation for wells to be abandoned. Before a well which is to be abandoned is sealed, the driller shall measure the depth and check to ensure that there are no obstructions within the well which may interfere with plugging operations. The driller shall pull or drill out screens, casings and liner pipes whenever possible to assure placement of an effective seal. The driller shall remove at least the upper five (5) feet of casing, liner pipe, brick, stone, metal, or other materials [etc.,] in all wells to prevent the passage of water along the casing and entering the water-bearing strata. The driller shall pull rather than cut the top joint of all plastic or steel casing.

(b) Disinfection. The driller shall disinfect the well and fill materials by using sodium hypochlorite or calcium hypochlorite. The driller shall dissolve sufficient chlorine compound to produce a calculated concentration of at least 100 parts per million (100 ppm) available chlorine in double the volume of water in the well. The driller shall place the fill material in the well after the water in the well has been so treated. Cement grouts do not require disinfection.

(c) Fill materials. The driller shall fill the aquifer or water-bearing zones in the wells with clean (relatively free of organic matter), disinfected, and dimensionally stable materials. The driller shall mechanically pack the fill materials to avoid later settlement. Neat cement shall [does] not require disinfection. Except as specified in paragraph (e) of this subsection and subsections (2) through (5) of

this section, the driller shall use only neat cement grout, a neat cement-bentonite slurry, or bentonite in plugging water wells. In all cases, clay may be used to fill the uppermost five (5) feet of the bore-hole.

[(2) Permanent bridges. Permanent bridges (Illustration H) may be used to avoid having to fill very deep holes below the deepest point at which a permanent seal is required. Permanent bridges shall be composed only of cement or cement-bearing minerals. The cement shall be allowed to harden for at least twenty-four (24) hours, if Type I cement is used, or for at least twelve (12) hours if Type III (high early strength) cement is used, before backfilling is continued. Temporary bridges used to provide a base for the permanent bridge shall consist only of inorganic materials - except that patented devices containing expandable neoprene, plastic, and other elastomers, and specifically designed for use in well construction are acceptable.]

(d) [(3)] Placement of grout. The driller shall introduce neat cement [Concrete] or neat cement-bentonite grout used as a sealing material in abandonment operations [shall be introduced] at the bottom of the well or interval to be sealed (or filled) and shall place it [placed] progressively upward to the top of the well. For all such sealing materials the driller shall [be placed by the] use [of] grout pipe, tremie, cement bucket or dump bailer, in such a way as to avoid segregation or dilution of the sealing materials. Dumping grout material from the top shall not be permitted. [Seals intended to prevent vertical movement of water in the well or bore hole shall be composed of cement grout or concrete, except that where such seals must be placed within casing or liners, only neat cement grout may be used. Cement grout seals shall be placed by means of pumping through drop pipe or by use of a dump bailer, with placement beginning at the bottom and continuing upward. The minimum cement seal length, wherever dimensions permit, shall be ten (10) feet.]

(e) Permanent bridges. Permanent bridges may be used only where voids are encountered which are too large to be filled. Under these circumstances, the driller shall completely fill the well to the bottom of the void with impermeable material. The driller shall construct a permanent bridge immediately above the void. The permanent bridge shall be at least ten (10) feet thick. Permanent bridges shall be composed only of neat cement. The driller shall allow the cement to harden for at least twenty-four (24) hours, if Type I cement is used, or for at least twelve (12) hours if Type III (high early strength) cement is used, before backfilling is continued. Temporary bridges used to provide a base for the permanent bridge shall consist only of inorganic materials - except that patented devices containing expandable neoprene, plastic, and other elastomers, and specifically designed for use in well construction are acceptable. Notification shall be given to the cabinet at least twenty-four (24) hours before a permanent bridge is to be installed.

[(4) Intermediate seals. Intermediate seals (Illustration I) of cement grout or concrete shall be placed in impermeable strata between aquifers which are identifiable as, or are suspected of being, hydraulically separated under natural, undisturbed conditions. Once the required cement seal has been installed, the remainder of the impermeable zone or nonproducing zone between aquifers shall be filled with sand, sand and gravel, or cement-bearing mineral material.]

[(5) Seal at uppermost aquifer. A cement grout or concrete seal shall be installed in the least permeable zone immediately above the uppermost water-producing zone. Such seals shall be placed only in quiescent (nonflowing) water. Prior to sealing for closure of flowing wells, the driller shall provide the cabinet a closure plan and shall obtain cabinet approval for that plan. The cabinet may provide assistance, if necessary, in developing this plan. (See Illustration J.)]

[(6) Nonproducing zones. Nonproducing zones above the aquifer shall be filled with stable materials such as sand, sand and gravel, cement grout, or concrete. Nonproducing zones above the uppermost aquifer seal shall be filled with materials less permeable than the surrounding undisturbed formations. The uppermost five (5) feet of the bore hole (at established ground surface) shall be filled with a material appropriate to the intended use of the land.]

(f) [(7)] Preexisting contamination. A [An abandoned] well unsuitable for its intended use which has been affected by salt water intrusion or any other pollutant [contaminants] shall be considered a special case. [, and] The method of filling and sealing such wells shall be submitted to the cabinet by the drillers and shall be subject to individual review and written approval by the cabinet prior to sealing. In the sealing of a double or multiple cased well, the driller shall submit a drawing of the well [thereof] with a description of the proposed procedure and materials to be used, for prior approval by the cabinet.

(g) [(8)] Well abandonment records. Before equipment is removed from the site, the exact location of the [abandoned] well or drill hole to be sealed and abandoned shall be determined and recorded, tying in the location with permanent reference points. The driller shall record all information relative to the abandonment procedures and the location of the abandoned well [shall be recorded] on forms [drillers log sheets] provided by the cabinet with copies supplied to the cabinet and the owner of the land within thirty (30) days. The information shall be submitted on the form entitled Kentucky Water Well Record (DEP-4045) incorporated by reference in Section 6(3) of this regulation.

(2) Abandonment of wells in unconsolidated formations. Drillers shall completely fill a well unsuitable for its intended use that is constructed only in unconsolidated formations and contains water under water table or atmospheric conditions. Clean, disinfected sand or gravel may be used as a fill material from the well bottom to the water table level. If the water-bearing formation consists of coarse sand or gravel and producing wells are located nearby, only sealing materials which do not adversely affect the producing wells shall be used. A driller shall not extend the sand or gravel fill any closer than ten (10) feet of the ground surface. The driller shall place a minimum of five (5) feet of neat cement grout, neat cement-bentonite slurry or bentonite above the sand or gravel fill. The driller shall fill the uppermost portion of the well above the

cement or bentonite plug with clay or an impermeable material appropriate to the intended use of the land. Neat cement, a neat cement bentonite slurry, or bentonite may be used to fill the well to the ground surface.

(3) Abandonment of wells in consolidated formations. The driller shall completely fill a well unsuitable for its intended use that is constructed in consolidated formations or bedrock with neat cement, a neat cement-bentonite slurry, or bentonite, if there is no artesian flow of water in the well. The driller shall not use sand or gravel except for those wells for which a well record is on file with the cabinet. Use of sand or gravel shall be considered a special case and the method of filling and sealing such wells shall be subject to written approval by the cabinet prior to sealing. Under these conditions, the cabinet may allow the use of sand and gravel to fill through the water-producing horizon, if there is limited vertical movement of water in the formation and such movement will not adversely affect the quality or quantity of water in producing wells. The driller shall place neat cement or neat cement-bentonite grout or bentonite immediately above the sand and gravel fill, extending up to within five (5) feet of the ground surface. The driller shall fill the uppermost five (5) feet of the bore-hole with clay or an impermeable material appropriate to the intended use of the land. In the event the casing cannot be pulled or drilled out, the driller shall use bentonite slurry to fill the length of the casing.

(4) Abandonment of flowing artesian wells. The sealing of abandoned flowing artesian wells or wells which are unsuitable for their intended use and in which there is vertical movement of water between aquifers requires special attention. The driller shall notify the cabinet at least twenty-four (24) hours before such a well is to be sealed. The driller shall pressure cement such wells with neat cement mixed with the minimum quantity of water that **will** [well] permit handling. In order to place the cement, the driller shall restrict flow. Gravel or stone aggregate not more than one-third (1/3) of the diameter of the hole may be placed through the water-bearing horizon, if its extent is known. The driller shall place a well packer, cast-iron plug, or temporary bridge at the bottom of the confining formation immediately overlying the artesian water-bearing horizon to seal off the flow. Temporary bridges shall consist only of inorganic materials - except that patented devices containing expandable neoprene, plastic, and other elastomers, and specifically designed for use in well construction **shall be** [are] acceptable. The driller shall place the neat cement grout in one (1) continuous operation from the top of the packer, plug or bridge to five (5) feet of the surface or to the bottom of an overlying water-bearing formation. In the latter situation it may be necessary to repeat the process described in this subsection. The driller shall fill the uppermost five (5) feet of the bore-hole with clay or an impermeable material appropriate to the intended use of the land.

Section 13. Monitoring Well Construction. (1) [A monitoring well means a water well constructed when the actual or intended use in whole or part is the removal of water for the purpose of sampling, measuring or test-pumping for scientific, engineering, or regulatory purposes. All] **After July 1, 1991, no person shall construct or modify a monitoring well without** [wells subject to this regulation shall be constructed only by persons] having a valid certificate issued in accordance with KRS 223.400 through 223.460.

(2) Drillers shall [design and] construct monitoring wells [in such a manner as] to maintain existing natural protection against the introduction of pollutants into aquifers, prevent the entry of pollutants through the bore-hole, and prevent the intermingling of groundwater from different aquifers through the bore-hole. **Compliance with this section shall not relieve the driller from specific requirements under other federal or state regulatory programs.**

(3) The driller shall use materials in the construction of a monitoring well appropriate to the purpose of that well. The driller shall seal the annular space above the sampling depth with suitable material, such as cement grout or bentonite, in order to prevent the introduction of pollutants into the samples or the groundwater. The driller shall complete the well at least four (4) inches above ground level or shall install a waterproof flush mount device capable of preventing surface water run-off, pollutants and contaminants from entering the well. The driller shall label the well with a Kentucky well tag. Within thirty (30) days after a monitoring well has been constructed or modified, the driller shall provide the well with a locking well cap.

(4) The driller shall provide the cabinet with a record of the well as specified in KRS 223.440.

(5) The **record** [report] shall be submitted on the form entitled Kentucky Monitoring Well Record (DEP-8043). The following document is adopted and filed herein by reference: Kentucky Monitoring Well Record (DEP-8043) (January 1, 1991). Copies of this document may be obtained from the Natural Resources and Environmental Protection Cabinet, Division of Water, 18 Reilly Road, Frankfort, Kentucky 40601, (502) 564-3410. The material is available for public inspection and copying during business hours of 8 a.m. to 4:30 p.m. at the Division of Water, Frankfort Office Park, 18 Reilly Road, Frankfort, Kentucky 40601.

(6) The owner shall ensure that monitoring wells are properly abandoned within thirty (30) days of the last sampling date or the determination is made that the monitoring well is unsuitable for use as a monitoring well.

(7) [(6)] This section shall become effective on July 1, 1991.

TABLE A

Required Minimum Distances From Lateral Sources of Pollutants

Lateral Sources of Contamination	Minimum Distances for Clay and Loam Soils
Cess Pools	150 feet
Leaching Pit	100 feet
Pit Privy	75 feet
Subsurface Seepage Tile	75 feet
Lateral Fields	70 feet
Manure Piles	75 feet

Septic Tank	50 feet
Barnyard	50 feet
Sewers (noncast iron) (nonperforated)	50 feet
Sewers (cast-iron with watertight leaded or mechanical joints)	15 feet
Sewers (Schedule 40 or heavier plastic pipe with solvent cemented or elastomeric seal joints.) Pipe is solid pipe not perforated.	15 feet
Footing Drains (no connection to a sewer or a sump handling sewage)	10 feet
Pump House Floor Drain	2 feet
Cemeteries	75 feet
Property Lines	20 feet

TABLE B

Casing and Liner Pipe Weights and Dimensions

Size (inches)	External Diameter (inches)	Thickness (inches)	Weight (pounds per foot)
1	1.315	0.120	-
1 1/4	1.660	0.120	-
1 1/2	1.900	0.120	-
2	2.375	0.120	2.89
2 1/2	2.875	0.120	3.53
3	3.500	0.120	4.33
3 1/2	4.000	0.120	4.97
4	4.500	0.188	8.66
5	5.563	0.188	10.79
6	6.625	0.188	12.92
8	8.625	0.277	24.70
10	10.750	0.307	34.24
12	12.750	0.330	43.77
14	14.000	0.375	54.57
16	16.000	0.375	62.58
18	18.000	0.375	70.59
20	20.000	0.375	78.60

Pipe sizes not listed that are less than eight (8) inches in diameter shall match listed values as closely as possible.

Pipe sizes not listed that are eight (8) inches in diameter or greater shall be Schedule 30 pipe as a minimum.

TABLE C

Plastic Casing and Liner Pipe Specifications

Size (inches)	SDR	External Diameter (inches)	Minimum Wall (inches)
4	26	4.500	0.173
5	26	5.563	0.214
6	26	6.625	0.255
8	26	8.625	0.332
10	26	10.750	0.413
12	26	12.750	0.490
14	26	14.000	0.539
16	26	16.000	0.616

TABLE D

Required Amounts of Disinfectant

Diameter of Well in Inches	Volume of Water in Gallons Per Foot of Depth	Disinfectant Required for Each 100 Gallons of Water
3	0.37	Laundry Bleach (5.25% chlorine) = 3 cups
4	0.65	
5	1.0	Hypochlorite Granules (70% chlorine) = 2 ounces
6	1.5	
8	2.6	
10	4.1	
12	6.0	

1 cup = 8 ounces measuring cup
(2 cups = 1 pint; 4 cups = 1 quart)

1 ounce = 1 heaping tablespoon granules
(16 ounces = 1 pound)

TABLE E

Required Amounts of Disinfecant

	Diameter of well (in feet)						
	3	4	5	6	7	8	10
Amount of 5.25% laundry bleach to use per foot of water (in cups)	1.5	3	4.5	6	9	12	18
Amount of 70% hypochlorite granules to use per foot of water (in ounces)	1	2	3	4	6	8	12

[COMPILER'S NOTE: The illustrations shown in Volume 2 of the Kentucky Administrative Regulations Service on pages 395 through 401 are being deleted from this regulation.]

CARL H. BRADLEY, Secretary
FRANK L. DICKERSON, Commissioner
APPROVED BY AGENCY: April 12, 1991
FILED WITH LRC: April 12, 1991 at 11 a.m.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Surface Mining Reclamation and Enforcement
(Amended After Hearing)

405 KAR 7:020. Definitions and abbreviations.

RELATES TO: KRS Chapter 350, 30 CFR Parts 700.5, 701.5, 707.5, 730-733, 735, 761.5, 762.5, 773.5, 800.5, 843.5, 917, 30 USC 1253, 1255, 1291
STATUTORY AUTHORITY: KRS Chapter 13A, 350.028, 350.465, 30 CFR Parts 700.5, 701.5, 707.5,

730-733, 735, 761.5, 762.5, 773.5, 800.5, 843.5, 917, 30 USC 1253, 1255, 1291

NECESSITY AND FUNCTION: KRS Chapter 350 in pertinent part requires the cabinet to promulgate rules and regulations pertaining to surface coal mining and reclamation operations under the permanent regulatory program. This regulation provides for the defining of certain essential terms used in KAR Title 405, Chapters 7 through 24.

Section 1. Definitions. Unless otherwise specifically defined or otherwise clearly indicated by their context, terms in KAR Title 405, Chapters 7 through 24 shall have the meanings given in this regulation.

(1) "Acid drainage" means water with a pH of less than 6.0 and in which total acidity exceeds total alkalinity, discharged from active, inactive or abandoned surface coal mine and reclamation operation or from an area affected by surface coal mining and reclamation operations.

(2) "Acid-forming materials" means earth materials that contain sulfide minerals or other materials which, if exposed to air, water, or weathering processes, form acids that may create acid drainage.

(3) "Adjacent area" means land located outside the affected area or permit area, depending on the context in which "adjacent area" is used, where air, surface or groundwater, fish, wildlife, vegetation or other resources protected by KRS Chapter 350 may be adversely impacted by surface coal mining and reclamation operations.

(4) "Administratively complete application" means an application for permit approval or approval for coal exploration where required, which the cabinet determines to contain information addressing each application requirement of the regulatory program and to contain all information necessary to initiate technical processing and public review.

(5) "Affected area" means any land or water which is used to facilitate, or is physically altered by, surface coal mining and reclamation operations. The affected area includes the disturbed area; any area upon which surface coal mining and reclamation operations are conducted; any adjacent lands the use of which is incidental to surface coal mining and reclamation operations; all areas covered by new or existing roads used to gain access to, or for hauling coal to or from, surface coal mining and reclamation operations, except as provided in this definition; any area covered by surface excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, shipping areas; any areas upon which are sited structures, facilities, or other property or material on the surface resulting from, or incident to, surface coal mining and reclamation operations; and the area located above underground workings associated with underground mining activities, auger mining, or in situ mining. The affected area shall include every road used for the purposes of access to, or for hauling coal to or from, surface coal mining and reclamation operations, unless the road:

(a) Was designated as a public road pursuant to the laws of the jurisdiction in which it is located;

(b) Is maintained with public funds, and constructed in a manner similar to other public roads of the same classification within the jurisdiction; and

(c) There is substantial (more than incidental) public use.

(6) "Agricultural use" means the use of any tract of land for the production of animal or vegetable life. The uses include, but are not limited to, the pasturing, grazing, and watering of livestock, and the cropping, cultivation, and harvesting of plants.

(7) "Applicant" means any person(s) seeking a permit, permit revision, permit amendment, permit renewal, or transfer, assignment, or sale of permit rights from the cabinet to conduct surface coal mining and reclamation operations or approval to conduct coal exploration operations pursuant to KRS Chapter 350 and all applicable regulations.

(8) "Application" means the documents and other information filed with the cabinet seeking issuance of permits; revisions; amendments; renewals; and transfer, assignment or sale of permit rights for surface coal mining and reclamation operations or, where required, seeking approval for coal exploration.

(9) "Approximate original contour" means that surface configuration achieved by backfilling and grading of the mined area so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls and spoil piles eliminated. Permanent water impoundments may be permitted where the cabinet has determined that they comply with KRS Chapter 350 and either 405 KAR 16:100; 405 KAR 16:060, Section 10; and 405 KAR 16:210 or 405 KAR 18:100; 405 KAR 18:060, Section 10; and 405 KAR 18:220.

(10) "Aquifer" means a zone, stratum, or group of strata that can store and transmit water in sufficient quantities for domestic, agricultural, industrial, or other beneficial use.

(11) "Area" as used in KAR Title 405, Chapter 24, means a geographic unit in which the criteria alleged in the petition pursuant to 405 KAR 24:020, Sections 3 and 4 and 405 KAR 24:030, Section 8, occur throughout and form a significant feature.

(12) "Auger mining" means a method of mining coal at a cliff or highwall by drilling holes into an exposed coal seam from the highwall and transporting the coal along an auger bit to the surface and shall also include all other such methods of mining in which coal is extracted from beneath the overburden by mechanical devices located at the face of the cliff or highwall and extending laterally into the coal seam, such as extended depth, secondary recovery systems.

(13) "Best technology currently available" means equipment, devices, systems, methods, or techniques which will prevent, to the extent possible, additional contributions of suspended solids to stream flow or run off outside the permit area and minimize, to the extent possible, disturbances and adverse impacts on fish, wildlife and related environmental values, and achieve enhancement of those resources where practicable. The term includes equipment,

devices, systems, methods, or techniques which are currently available anywhere as determined by the cabinet, even if they are not in routine use. The term includes, but is not limited to, construction practices, siting requirements, vegetative selection and planting requirements, animal stocking requirements, scheduling of activities and design of sedimentation ponds in accordance with KAR Title 405, Chapters 16 and 18. The cabinet shall have the discretion to determine the best technology currently available on a case-by-case basis, as authorized by KRS Chapter 350 and KAR Title 405, Chapters 7 through 24.

(14) "Cabinet" means the Natural Resources and Environmental Protection Cabinet.

(15) "Cemetery" means any area where human bodies are interred.

(16) "Cessation order" means an order for cessation and immediate compliance and any similar order issued by OSM under SMCRA or issued by any state pursuant to its laws or regulations under SMCRA.

(17) [(16)] "Coal" means combustible carbonaceous rock, classified as anthracite, bituminous, subbituminous, or lignite by ASTM Standard D 388-77.

(18) [(17)] "Coal exploration" means the field gathering of:

(a) Surface or subsurface geologic, physical, or chemical data by mapping, trenching, drilling, geophysical, or other techniques necessary to determine the quality and quantity of overburden and coal of an area; or

(b) Environmental data to establish the conditions of an area before beginning surface coal mining and reclamation operations under the requirements of KAR Title 405, Chapters 7 through 24 where such activity may cause any disturbance of the land surface or may cause any appreciable effect upon land, air, water or other environmental resources.

(19) [(18)] "Coal mine waste" means coal processing waste and underground development waste.

(20) [(19)] "Coal processing plant" means a facility where coal is subjected to chemical or physical processing or cleaning, concentrating, crushing, sizing, screening, or other processing or preparation including all associated support facilities including but not limited to: loading facilities; storage and stockpile facilities; sheds, shops, and other buildings; water treatment and water storage facilities; settling basins and impoundments; and coal processing and other waste disposal areas.

(21) [(20)] "Coal processing waste" means materials which are separated from the product coal during the cleaning, concentrating, or other processing or preparation of coal.

(22) [(21)] "Collateral bond" means an indemnity agreement in a sum certain payable to the cabinet executed by the permittee and which is supported by the deposit with the cabinet of cash, negotiable certificates of deposit or an irrevocable letter of credit of any bank organized and authorized to transact business in the United States.

(23) [(22)] "Combustible material" means organic material that is capable of burning, either by fire or through oxidation, accompanied by the evolution of heat and a significant temperature rise.

(24) [(23)] "Community or institutional building" means any structure, other than a public building or an occupied dwelling, which is used primarily for meetings, gatherings, or functions of local civic organizations or other community groups; functions as an educational, cultural, historic, religious, scientific, correctional, mental health or physical health care facility; or is used for public services, including, but not limited to, water supply, power generation or sewage treatment.

(25) [(24)] "Compaction" means increasing the density of a material by reducing the voids between the particles by mechanical effort.

(26) [(25)] "Complete and accurate application" means an application for permit approval or approval for coal exploration where required, which the cabinet determines to contain all information required under, and necessary to comply with, KRS Chapter 350 and Title 450, Chapters 7 through 24, in order to make decisions concerning its administrative and technical acceptability and whether a permit or exploration approval should be issued.

(27) [(26)] "Cropland" means land used for the production of adapted crops for harvest, alone or in a rotation with grasses and legumes, and includes row crops, small grain crops, hay crops, nursery crops, orchard crops, and other similar specialty crops. Land used for facilities in support of cropland farming operations which is adjacent to or an integral part of these operations is also included for purposes of land use categories.

(28) [(27)] "Cumulative impact area" means the area, including the permit area, within which impacts resulting from the proposed operation may interact with the impacts of all anticipated mining on surface - and groundwater systems. Anticipated mining shall include, at a minimum, the entire projected lives through bond release of:

(a) The proposed operation;

(b) All existing operations;

(c) Any operation for which a permit application has been submitted to the cabinet; and

(d) All operations required to meet diligent development requirements for leased federal coal for which there is actual mine development information available.

(29) [(28)] "Date of primacy" means the effective date of the Secretary of Interior's unconditional or conditional approval of Kentucky's permanent regulatory program under Section 503 of the 1977 Surface Mining Control and Reclamation Act (P.L. 95-87). The effective date of the subject approval was May 18, 1982.

(30) [(29)] "Day" means calendar day unless otherwise specified to be a working day.

(31) [(30)] "Department" means the Department for Surface Mining Reclamation and Enforcement.

(32) [(31)] "Developed water resources land" means land used for storing water for beneficial uses such as stockponds, irrigation, fire protection, flood control, and water supply.

(33) [(32)] "Disturbed area" means an area where vegetation, topsoil, or overburden is removed or upon which topsoil, spoil, coal processing waste, underground development waste, or noncoal waste is placed by surface coal mining operations. Those areas are classified as "disturbed" until reclamation is complete and the performance bond or other assurance of performance required by KAR Title 405, Chapter 10 is released.

(34) [(33)] "Diversion" means a channel,

embankment, or other manmade structure constructed to divert water from one (1) area to another.

(35) [(34)] "Downslope" means the land surface below the projected outcrop of the lowest coal-bed being mined along each highwall.

(36) [(35)] "Embankment" means a manmade deposit of material that is raised above the natural surface of the land and used to contain, divert, or store water, support roads or railways, or for other similar purposes.

(37) [(36)] "Ephemeral stream" means a stream which flows only in direct response to precipitation in the immediate watershed or in response to the melting of a cover of snow and ice, and which has a channel bottom that is always above the local water table.

(38) [(37)] "Excess spoil" means spoil material disposed of in a location other than the coal extraction area, provided that spoil material used to achieve the approximate original contour shall not be considered excess spoil.

(39) [(38)] "Existing structure" means a structure or facility used in connection with or to facilitate surface coal mining and reclamation operations for which construction begins prior to January 18, 1983.

(40) [(39)] "Extraction of coal as an incidental part" means the extraction of coal which is necessary to enable the construction to be accomplished. Only that coal extracted from within the right-of-way, in the case of a road, railroad, utility line or other such construction, or within the boundaries of the area directly affected by other types of government-financed construction, may be considered incidental to that construction. Extraction of coal outside the right-of-way or boundary of the area directly affected by the construction shall be subject to the requirements of KRS Chapter 350 and KAR Title 405, Chapters 7 through 24.

(41) [(40)] "Federal lands" means any land, including mineral interests, owned by the United States, without regard to how the United States acquired ownership of the lands or which agency manages the lands. It does not include Indian lands.

(42) [(41)] "Federal lands program" means a program established by the Secretary of the Interior pursuant to Section 523 of the Surface Mining Control and Reclamation Act of 1977 (P.L. 95-87, 91 Stat. 445 (30 USC Section 1201 et seq.)) to regulate surface coal mining and reclamation operations on federal lands.

(43) [(42)] "Fish and wildlife habitat" means land dedicated wholly or partially to the production, protection or management of species of fish or wildlife.

(44) [(43)] "Forest land" means land used or managed for the long-term production of wood, wood fiber, or wood derived products. Land used for facilities in support of forest harvest and management operations which is adjacent to or an integral part of these operations is also included.

(45) [(44)] "Fragile lands" means areas containing natural, ecologic, scientific, or aesthetic resources that could be significantly damaged by surface coal mining operations. Examples of fragile lands include uncommon geologic formations, paleontological sites, National Natural Landmarks, valuable habitats for fish or wildlife, areas where mining may result in flooding, critical habitats for endangered or threatened species of animals or plants, wetlands, environmental corridors containing a concentration of ecologic and aesthetic features, state-designated nature preserves and wild rivers, and areas of recreational value due to high environmental quality.

(46) [(45)] "Fugitive dust" means that particulate matter which becomes airborne due to wind erosion from exposed surfaces.

(47) [(46)] "General area" means, with respect to hydrology, the topographic and groundwater basin surrounding a permit area which is of sufficient size, including areal extent and depth, to include one (1) or more watersheds containing perennial streams and groundwater zones and to allow assessment of the probable cumulative impacts on the quality and quantity of surface and groundwater systems in the basins.

(48) [(47)] "Government-financed construction" means construction funded fifty (50) percent or more by funds appropriated from a government financing agency's budget or obtained from general revenue bonds, but shall not mean government financing agency guarantees, insurance, loans, funds obtained through industrial revenue bonds or their equivalent, or in-kind payments.

(49) [(48)] "Government financing agency" means a federal, Commonwealth of Kentucky, county, municipal, or local unit of government, or a cabinet, department, agency or office of the unit which, directly or through another unit of government, finance construction.

(50) [(49)] "Grazing land" means grassland and forest lands where the indigenous vegetation is actively managed for grazing, browsing, or occasional hay production. Land used for facilities in support of grazing operations which are adjacent to or an integral part of these operations is also included.

(51) [(50)] "Groundwater" means subsurface water that fills available openings in rock or soil materials to the extent that they are considered water saturated.

(52) [(51)] "Half-shrub" means a perennial plant with a woody base whose annually-produced stems die back each year.

(53) [(52)] "Head-of-hollow fill" means a fill structure consisting of any material, other than coal processing waste and organic material, placed in the uppermost reaches of a hollow near the approximate elevation of the ridgeline, where there is no significant natural drainage area above the fill, and where the side slopes of the existing hollow measured at the steepest point are greater than twenty (20) degrees or the average slope of the profile of the hollow from the toe of the fill to the top of the fill is greater than ten (10) degrees.

(54) [(53)] "Highwall" means the face of exposed overburden and coal in an open cut of a surface coal mining activity or for entry to underground mining activities.

(55) [(54)] "Historic lands" means areas containing historic, cultural, or scientific resources. Examples of historic lands include properties listed on or eligible for listing on a State or National Register of Historic Places, National Historic Landmarks, archaeological sites, properties having religious or cultural significant to Native Americans or religious groups, and properties for which historic designation is pending.

(56) [(55)] "Historically used for cropland."

(a) "Historically used for cropland" means that lands have been used for cropland for any five (5) years or more out of the ten (10) years immediately preceding:

1. The application; or

2. The acquisition of the land for the purpose of conducting surface coal mining and reclamation operations.

(b) Lands meeting either paragraph (a)1 or paragraph (a)2 of this subsection shall be considered "historically used for cropland."

(c) In addition to the lands covered by paragraph (a) of this subsection, other lands shall be considered "historically used for cropland" as described below:

1. Land that would likely have been used as cropland for any five (5) out of the last ten (10) years immediately preceding the acquisition or the application but for some fact of ownership or control of the land unrelated to the productivity of the land; and

2. Lands that the cabinet determines, on the basis of additional cropland history of the surrounding lands and the lands under consideration, are clearly cropland but fall outside the specific five (5) years in ten (10) criterion.

(d) Acquisition includes purchase, lease, or option of the land for the purpose of conducting or allowing through resale, lease or option, the conduct of surface coal mining and reclamation operations.

(57) [(56)] "Hydrologic balance" means the relationship between the quality and quantity of water inflow to, water outflow from, and water storage in a hydrologic unit such as a drainage basin, aquifer, soil zone, lake, or reservoir. It encompasses the dynamic relationship between precipitation, run-off, evaporation, and changes in ground and surface water storage.

(58) [(57)] "Hydrologic regime" means the entire state of water movement in a given area. It is a function of the climate and includes the phenomena by which water first occurs as atmospheric water vapor, passes into a liquid or solid form, falls as precipitation, moves along or into the ground surface, and returns to the atmosphere as vapor by means of evaporation and transpiration.

(59) [(58)] "Imminent danger to the health and safety of the public" means the existence of any condition or practice, or any violation of a permit or other requirements of KRS Chapter 350 in a surface coal mining and reclamation operation, which could reasonably be expected to cause substantial physical harm to persons outside the permit area before the condition, practice, or violation can be abated. A reasonable expectation of death or serious injury before abatement exists if a rational person, subjected to the same condition or practice giving rise to the peril, would avoid exposure to the danger during the time necessary for abatement.

(60) [(59)] "Impoundment" means a closed basin, naturally formed or artificially built, which is dammed or excavated for the retention of water, sediment, or waste.

(61) [(60)] "Incidental boundary revision" means an extension to a permit area that is necessary for reasons unforeseen at the time the original permit application was prepared and that is small in relation to the permit area (surface operations area for underground mining activities).

(a) Where an extension includes new areas from which coal will be removed, it will be considered as an incidental boundary revision only if the extension is no more than ten (10) percent of the permit area acreage or five (5) acres, whichever is less.

(b) Where an extension is for new areas not involving extraction of coal, it will be considered an incidental boundary revision only if the extension is no more than ten (10) percent of the permit area acreage (surface operations area acreage for underground mining activities) or two (2) acres, whichever is greater.

(c) Cumulative acreage added by successive revisions may not exceed the above limitations.

(62) [(61)] "Industrial/commercial lands" means lands used for:

(a) Extraction or transformation of materials for fabrication of products, wholesaling of products or for long-term storage of products; and heavy and light manufacturing facilities. Land used for facilities in support of these operations which is adjacent to or an integral part of that operation is also included.

(b) Retail or trade of goods or services, including hotels, motels, stores, restaurants, and other commercial establishments. Lands used for facilities in support of commercial operations which is adjacent to or an integral part of these operations is also included.

(c) Commercial agriculture activities including pasturing, grazing, and watering of livestock, and the cropping, cultivation and harvesting of plants for sale or resale.

(63) [(62)] "In situ processes" means activities conducted on the surface or underground in connection with in-place distillation, retorting, leaching, or other chemical or physical processing of coal. The term includes, but is not limited to, in situ gasification, in situ leaching, slurry mining, solution mining, borehole mining, and fluid recovery mining.

(64) [(63)] "Intermittent stream" means:

(a) A stream or reach of stream that drains a watershed of one (1) square mile or more but does not flow continuously during the calendar year; or

(b) A stream or reach of stream that is below the local water table for at least some part of the year, and obtains its flow from both surface run-off and groundwater discharge.

(65) [(64)] "Irreparable damage to the environment" means any damage to the environment, in violation of SMCRA, KRS Chapter 350, or KAR Title 405 Chapters 7 through 24, that cannot be corrected by actions of the applicant.

(66) [(65)] "Land use" means specific uses or management-related activities rather than the vegetation or cover of the land, and may be identified in combination when joint or seasonal uses occur.

(67) [(66)] "Monitoring" means the collection of environmental data by either continuous or periodic sampling methods.

(68) [(67)] "Mulch" means vegetation residues or other suitable materials that aid in soil stabilization and soil moisture conservation, thus providing microclimatic conditions suitable for germination and growth.

(69) [(68)] "Natural hazard lands" means geographic areas in which natural conditions

exist that pose or, as a result of surface coal mining operations, may pose a threat to the health, safety, or welfare of people, property or the environment, including, but not limited to, areas subject to landslides, cave-ins, subsidence, substantial erosion, unstable geology, or frequent flooding.

(70) [(69)] "Notice of noncompliance and order for remedial measures" means a written document and order prepared by an authorized representative of the cabinet which sets forth with specificity the violations of KRS Chapter 350, KAR Title 405, Chapters 7 through 24, or permit conditions which the authorized representative of the cabinet determines to have occurred based upon his inspection, and the necessary remedial actions, if any, and the time schedule for completion thereof, which the authorized representative deems necessary and appropriate to correct the violations.

(71) [(70)] "Notice of violation" means any written notification from a governmental entity of a violation of law or regulation, whether by letter, memorandum, legal or administrative pleading, or other written communication. This shall include a notice of noncompliance and order for remedial measures.

(72) [(71)] "Noxious plants" means species classified under Kentucky law as noxious plants.

(73) [(72)] "Occupied dwelling" means any building that is currently being used on a regular or temporary basis for human habitation.

(74) [(73)] "Operations" means surface coal mining and reclamation operations, all of the premises, facilities, roads and equipment used in the process of producing coal from a designated area or removing overburden for the purpose of determining the location, quality or quantity of a natural coal deposit or the activity to facilitate or accomplish the extraction or removal of coal.

(75) [(74)] "Operator" means any person, partnership, or corporation engaged in surface coal mining and reclamation operations.

(76) [(75)] "Order for cessation and immediate compliance" means a written document and order issued by an authorized representative of the cabinet when:

(a) A person to whom a notice of noncompliance and order for remedial measures was issued has failed, as determined by a cabinet inspection, to comply with the terms of the notice of noncompliance and order for remedial measures within the time limits set therein, or as subsequently extended; or

(b) The authorized representative finds, on the basis of a cabinet inspection, any condition or practice; or any violation of KRS Chapter 350, KAR Title 405, Chapters 7 through 24, or any condition of a permit or exploration approval which:

1. Creates an imminent danger to the health or safety of the public; or

2. Is causing or can reasonably be expected to cause significant, imminent environmental harm to land, air or water resources.

(77) [(76)] "Outslope" means the face of the spoil or embankment sloping downward from the highest elevation to the toe.

(78) [(77)] "Overburden" means material of any nature, consolidated or unconsolidated, that overlies a coal deposit, excluding topsoil.

(79) "Owned or controlled" and "owns or controls" means any one (1) or a combination of the relationships specified in paragraphs (a) and (b) of this definition:

(a)1. Being a permittee of a surface coal mining operation;

2. Based on instruments of ownership or voting securities, owning of record in excess of fifty (50) percent of an entity; or

3. Having any other relationship that gives one (1) person authority directly or indirectly to determine the manner in which an applicant, an operator, or other entity conducts surface coal mining operations.

(b) The following relationships are presumed to constitute ownership or control unless a person can demonstrate that the person subject to the presumption does not in fact have the authority directly or indirectly to determine the manner in which the relevant surface coal mining operation is conducted:

1. Being an officer or director of an entity;

2. Being the operator of a surface coal mining operation;

3. Having the ability to commit the financial or real property assets or working resources of an entity;

4. Being a general partner in a partnership;

5. Based on the instruments of ownership or the voting securities of a corporate entity, owning of record ten (10) through fifty (50) percent of the entity; or

6. Owning or controlling coal to be mined by another person under a lease, sublease, or other contract and having the right to receive the coal after mining or having authority to determine the manner in which that person or another person conducts a surface coal mining operation.

(80) [(78)] "Pastureland" means land used primarily for the long-term production of adapted, domesticated forage plants to be grazed by livestock or occasionally cut and cured for livestock feed. Land used for facilities in support of pastureland which is adjacent to or an integral part of these operations is also included.

(81) [(79)] "Perennial stream" means a stream or that part of a stream that flows continuously during all of the calendar year as a result of groundwater discharge or surface run-off. The term does not include "intermittent stream" or "ephemeral stream."

(82) [(80)] "Performance bond" means a surety bond, collateral bond, or a combination thereof, or bonds filed pursuant to the provisions of the Kentucky Bond Pool Program (405 KAR 10:200, KRS 350.595, and 350.700 through 350.755), by which a permittee assures faithful performance of all the requirements of KRS Chapter 350, KAR Title 405, Chapters 7 through 24, and the requirements of the permit and reclamation plan.

(83) [(81)] "Permanent diversion" means a diversion remaining after surface coal mining and reclamation operations are completed which has been approved for retention by the cabinet and other appropriate Kentucky and federal agencies.

(84) [(82)] "Permit" means written approval issued by the cabinet to conduct surface coal mining and reclamation operations.

(85) [(83)] "Permit area" means the area of land and water within boundaries designated in the approved permit application, which shall include, at a minimum, all areas which are or will be affected by surface coal mining and reclamation operations under that permit.

(86) [(84)] "Permittee" means an operator or a

person holding or required by KRS Chapter 350 or KAR Title 405, Chapters 7 through 24 to hold a permit to conduct surface coal mining and reclamation operations during the permit term and until all reclamation obligations imposed by KRS Chapter 350 and KAR Title 405, Chapters 7 through 24 are satisfied.

(87) [(85) "Person" means any individual, partnership, association, society, joint stock company, firm, company, corporation, or other business organization, or any agency, unit, or instrumentality of federal, state, or local government, including any publicly owned utility or publicly owned corporation of federal, state, or local government.

(88) [(86)] "Person having an interest which is or may be adversely affected" or "person with a valid legal interest" shall include any person:

(a) Who uses any resource of economic, recreational, aesthetic, or environmental value that may be adversely affected by coal exploration or surface coal mining and reclamation operations, or by any related action of the cabinet; or

(b) Whose property is or may be adversely affected by coal exploration or surface coal mining and reclamation operations, or by any related action of the cabinet.

(89) [(87)] "Petitioner" means a person who submits a petition under KAR Title 405, Chapter 24 to designate a specific area as unsuitable for all or certain types of surface coal mining and reclamation operations, or who submits a petition under KAR Title 405, Chapter 24 to terminate such a designation.

(90) [(88)] "Precipitation event" means a quantity of water resulting from drizzle, rain, snow melt, sleet, or hail in a specified period of time.

(91) [(89)] "Prime farmland" means those lands which are defined by the Secretary of Agriculture in 7 CFR 657 and which have historically been used for cropland as that phrase is defined above.

(92) [(90)] "Principal shareholder" means any person who is the record or beneficial owner of ten (10) percent or more of any class of voting stock of the applicant.

(93) [(91)] "Probable cumulative impacts" means the expected total qualitative, and quantitative, direct and indirect effects of surface coal mining and reclamation operations on the hydrologic regime.

(94) [(92)] "Probable hydrologic consequences" means the projected results of proposed surface coal mining and reclamation operations which may reasonably be expected to change the quantity or quality of the surface and groundwater; the surface or groundwater flow, timing and pattern; and the stream channel conditions on the permit area and adjacent areas.

(95) [(93)] "Property to be mined" means both the surface and mineral estates on and underneath lands which are within the permit area.

(96) [(94)] "Public building" means any structure that is owned or leased, and principally used by a governmental agency for public business or meetings.

(97) [(95)] "Publicly-owned park" means a public park that is owned by a federal, state, or local governmental entity.

(98) [(96)] "Public office" means a facility under the direction and control of a governmental entity which is open to public access on a regular basis during reasonable business hours.

(99) [(97)] "Public park" means an area dedicated or designated by any federal, state, or local agency for public recreational use, despite whether such use is limited to certain times or days. It includes any land leased, reserved or held open to the public because of that use.

(100) [(98)] "Public road" means any publicly owned thoroughfare for the passage of vehicles.

(101) [(99)] "Recharge capacity" means the ability of the soils and underlying materials to allow precipitation and run-off to infiltrate and reach the zone of saturation.

(102) [(100)] "Reclamation" means the reconditioning and restoration of areas affected by surface coal mining operations as required by KRS Chapter 350 and KAR Title 405, Chapters 7 through 24 under a plan approved by the cabinet.

(103) [(101)] "Recreation land" means land used for public or private leisure-time use, including developed recreation facilities such as parks, camps, and amusement areas, as well as areas for less intensive uses such as hiking, canoeing, and other undeveloped recreational uses.

(104) [(102)] "Recurrence interval" means the interval of time in which an event is expected to occur once, on the average.

(105) [(103)] "Reference area" means a land unit maintained under appropriate management for the purpose of measuring vegetation ground cover, productivity and plant species diversity that are produced naturally or by crop production methods approved by the cabinet. Reference areas must be representative of geology, soil, slope and vegetation in the permit area.

(106) [(104)] "Refuge pile" means a surface deposit of coal mine waste that is not retained by an impounding structure and does not impound water, slurry, or other liquid or semiliquid material.

(107) [(105)] "Renewable resource lands".

(a) As used in KAR Title 405, Chapter 24, "renewable resource lands" means geographic areas which contribute significantly to the long-range productivity of water supplies or of food or fiber products, such lands to include aquifers and aquifer recharge areas.

(b) As used in 405 KAR 8:040, Section 26, "renewable resource lands" means aquifers and areas for the recharge of aquifers and other undergroundwaters, areas for agricultural or silvicultural production of food and fiber, and grazing lands.

(108) [(106)] "Residential land" means tracts employed for single and multiple-family housing, mobile home parks, and other residential lodgings. Also included is land used for support facilities such as vehicle parking, open space, and other facilities which directly relate to the residential use of the land.

(109) [(107)] "Road" means a surface right-of-way for purposes of travel by land vehicles used in coal exploration or surface coal mining and reclamation operations. A road consists of the entire area within the right-of-way, including the roadbed, shoulders, parking and side area, approaches, structures, ditches, surface, and such contiguous appendages as are necessary for the total structure. The term includes access and haul roads constructed, used, reconstructed, improved, or maintained for

use in coal exploration or surface coal mining and reclamation operations, including use by coal hauling vehicles leading to transfer, processing, or storage areas. The term does not include pioneer or construction roadways used for part of the road construction procedure and promptly replaced by a road pursuant to KAR Title 405, Chapters 16 and 18 located in the identical right-of-way as the pioneer or construction roadway. The term also excludes any roadway within the immediate mining pit area.

(110) [(108)] "Safety factor" means the ratio of the available shear strength to the developed shear stress, or the ratio of the sum of the resisting forces to the sum of the loading or driving forces, as determined by accepted engineering practices.

(111) [(109)] "Secretary" means the Secretary of the Cabinet for Natural Resources and Environmental Protection.

(112) [(110)] "Sedimentation pond" means a primary sediment controlled structure designed, constructed and maintained in accordance with 405 KAR 16:090 or 405 KAR 18:090 and including but not limited to a barrier, dam, or excavated depression which slows down water run-off to allow suspended solids to settle out. A sedimentation pond shall not include secondary sedimentation control structures such as straw dikes, riprap, check dams, mulches, dugouts and other measures that reduce overland flow velocity, reduce run-off volume or trap sediment, to the extent that such secondary sedimentation structures drain to a sedimentation pond.

(113) [(111)] "Significant, imminent environmental harm" is an adverse impact on land, air, or water resources which resources include, but are not limited to, plant and animal life as further defined in this subsection.

(a) An environmental harm is imminent, if a condition, practice, or violation exists which:

1. Is causing such harm; or

2. May reasonably be expected to cause such harm at any time before the end of the reasonable abatement time that would be set by the cabinet's authorized agents pursuant to the provisions of KRS Chapter 350.

(b) An environmental harm is significant if that harm is appreciable and not immediately reparable.

(114) [(112)] "Slope" means average inclination of a surface, measured from the horizontal, generally expressed as the ratio of a unit of vertical distance to a given number of units of horizontal distance (e.g. 1v:5h). It may also be expressed as a percent or in degrees.

(115) [(113)] "Slurry mining" means the hydraulic breakdown of subsurface coal with drill-hole equipment, and the education of the resulting slurry to the surface for processing.

(116) [(114)] "Soil horizons" means contrasting layers of soil parallel or nearly parallel to the land surface. Soil horizons are differentiated on the basis of field characteristics and laboratory data. The four (4) master soil horizons are:

(a) "A horizon." The uppermost mineral layer, often called the surface soil. It is the part of the soil in which organic matter is most abundant, and leaching of soluble or suspended particles is typically the greatest.

(b) "E horizon." The layer commonly near the surface below an A horizon and above a B horizon. An E horizon is most commonly differentiated from an overlying A horizon by a lighter color and generally has measurably less organic matter than the A horizon. An E horizon is most commonly differentiated from an underlying B horizon in the same sequence by color of higher value or lower chroma, by coarser texture or by a combination of these properties.

(c) "B horizon." The layer that typically is immediately beneath the E horizon and often called the subsoil. This middle layer commonly contains more clay, iron, or aluminum than the A, E, or C horizons.

(d) "C horizon." The deepest layer of soil profile. It consists of loose material or weathered rock that is relatively unaffected by biologic activity.

(117) [(115)] "Soil survey" means a field or other investigation, resulting in a map showing the geographic distribution of different kinds of soils and an accompanying report that describes, classifies, and interprets such soils for use. Soil surveys must meet the standards of the National Cooperative Soil Survey.

(118) [(116)] "Spoil" means overburden and other materials, excluding topsoil, coal mine waste, and mine coal, that are excavated during surface coal mining and reclamation operations.

(119) [(117)] "Stabilize" means to control movement of soil, spoil piles, or areas of disturbed earth by modifying the geometry of the mass, or by otherwise modifying physical or chemical properties, such as by providing a protective surface coating.

(120) [(118)] "Steep slope" means any slope of more than twenty (20) degrees.

(121) [(119)] "Substantially disturb" means, for purposes of coal exploration, to significantly impact land or water resources by blasting; by removal of vegetation, topsoil, or overburden; by construction of roads or other access routes; by placement of excavated earth or waste material on the natural land surface; or by other such activities, or to remove more than 250 tons of coal.

(122) [(120)] "Successor in interest" means any person who succeeds to rights granted under a permit, by transfer, assignment, or sale of those rights.

(123) [(121)] "Surety bond" means an indemnity agreement in a sum certain payable to the cabinet executed by the permittee which is supported by the performance guarantee of a corporation licensed to do business as a surety in the Commonwealth of Kentucky where the surface or underground coal mining operation subject to the indemnity agreement is located.

(124) [(122)] "Surface coal mining and reclamation operations" means surface coal mining operations and all activities necessary and incident to the reclamation of such operations.

(125) [(123)] "Surface coal mining operations" means activities conducted on the surface of lands in connection with a surface coal mine and surface operations and surface impacts incident to an underground coal mine. Such activities include excavation for the purpose of obtaining coal, including such common methods as contour, strip, auger, mountaintop removal, box cut, open pit, and area mining, the use of explosives and blasting, and in situ distillation or retorting, leaching or other chemical or physical processing, and cleaning, concentrating, or

other processing or preparation, and the loading of coal at or near the mine site. Such activities shall not include the extraction of coal by a landowner for his own noncommercial use from land owned or leased by him, except that noncommercial use shall not include the extraction of coal by one (1) unit of an integrated company or other business entity which uses the coal in its own manufacturing or power plants; the extraction of coal as an incidental part of federal, state, or local government financed highway or other construction; or the extraction of, or intent to extract, 250 tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds (16 2/3) percent of the tonnage of minerals removed for the purpose of commercial use or sale; or coal exploration. Surface coal mining operations shall also include the areas upon which such activities occur or where such activities disturb the natural land surface. Such areas shall also include any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities. This definition includes the terms "strip mining of coal" and the surface effects of underground mining of coal as defined in KRS Chapter 350.

(126) [(124)] "Surface mining activities" means those surface coal mining and reclamation operations incident to the extraction of coal from the earth by removing the materials over a coal seam before recovering the coal, by auger coal mining, by extraction of coal from coal refuse piles, or by recovery of coal from slurry ponds.

(127) [(125)] "Suspended solids" or nonfilterable residue, expressed as milligrams per liter, means organic or inorganic materials carried or held in suspension in water which are retained by a standard glass fiber filter in the procedure outlined by the Environmental Protection Agency's regulations for waste water and analyses (40 CFR 136).

(128) [(126)] "Temporary diversion" means a diversion of a stream or overland flow which is used during coal exploration or surface coal mining and reclamation operations and not approved by the cabinet to remain after reclamation as part of the approved postmining land use.

(129) [(127)] "Ton" means 2,000 pounds avoirdupois (.90718 metric ton).

(130) [(128)] "Topsoil" means the A and E soil horizon layers of the four (4) master soil horizons.

(131) [(129)] "Toxic-forming materials" means earth materials or wastes which, if acted upon by air, water, weathering, or microbiological processes, are likely to produce chemical conditions in soils or water that are detrimental to biota or uses of water.

(132) [(130)] "Toxic-mine drainage" means water that is discharged from active or abandoned mines or other areas affected by coal exploration or surface coal mining and reclamation operations, which contains a substance that through chemical action is likely to kill, injure, or impair biota commonly present in the area that might be exposed to it.

(133) [(131)] "Transfer, assignment or sale of rights" means a change in ownership or other effective control over the right to conduct surface coal mining operations under a permit issued by the cabinet.

(134) [(132)] "Underground development waste" means waste coal, shale, claystone, siltstone, sandstone, limestone, or similar materials that are extracted from underground workings in connection with underground mining activities.

(135) [(133)] "Underground mining activities" means a combination of:

(a) Surface operations incident to underground extraction of coal or in situ processing, including construction, use, maintenance, and reclamation of roads; aboveground repair areas, storage areas, processing areas, and shipping areas; areas upon which are sited support facilities including hoist and ventilating ducts, areas utilized for the disposal and storage of waste, and areas on which materials incident to underground mining operations are placed; and

(b) Underground operations such as underground construction, operation, and reclamation of shafts, adits, underground support facilities, in situ processing, and underground mining, hauling, storage, and blasting.

(136) [(134)] "Undeveloped land or no current use or land management" means land that is undeveloped or, if previously developed, land that has been allowed to return naturally to an undeveloped state or has been allowed to return to forest through natural succession.

(137) [(135)] "Unwarranted failure to comply" means the failure of the permittee due to indifference, lack of diligence or lack of reasonable care:

(a) To prevent the occurrence of any violation of any applicable requirement of KRS Chapter 350, the regulations of KAR Title 405, Chapters 7 through 24, or permit conditions; or

(b) To abate any violation of any applicable requirement of KRS Chapter 350, the regulations of KAR Title 405, Chapters 7 through 24, or permit conditions.

(138) [(136)] "Valley fill" means a fill structure consisting of any material other than coal waste and organic material that is placed in a valley where side slopes of the existing valley measured at the steepest point are greater than twenty (20) degrees or the average slope of the profile of the valley from the toe of the fill to the top of the fill is greater than ten (10) degrees.

(139) [(137)] "Water table" means the upper surface of a zone of saturation, where the body of groundwater is not confined by an overlying impermeable zone.

(140) [(138)] "Water transmitting zone" means a body of consolidated or unconsolidated rocks which, due to their greater primary or secondary permeability relative to the surrounding rocks, can reasonably be considered to function as a single hydraulic medium for the flow of

groundwater.

(141) [(139)] "Wetland" means land that has a predominance of hydric soils and that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions.

(a) "Hydric soil" means soil that, in its undrained condition, is saturated, flooded, or ponded long enough during a growing season to develop an anaerobic condition that supports the growth and regeneration of hydrophytic vegetation.

(b) "Hydrophytic vegetation" means a plant growing in:

1. Water; or

2. A substrate that is at least periodically deficient in oxygen during a growing season as a result of excessive water content.

(142) [(140)] "Willful violation" means an act or omission which violates the Surface Mining Control and Reclamation Act (P.L. 95-87), KRS Chapter 350, the regulations of KAR Title 405, Chapters 7 through 24, or any permit condition, committed by a person who intends the result which actually occurs.

Section 2. Abbreviations. As used in KAR Title 405, Chapters 7 through 24, the following abbreviations shall have the meanings given below:

ac - acre
CFR - Code of Federal Regulations
dB - decibels
FDIC - Federal Deposit Insurance Corporation
FSLIC - Federal Savings and Loan Insurance Corporation
Hz - hertz
KAR - Kentucky Administrative Regulations
KPDES - Kentucky Pollutant Discharge Elimination System
KRS - Kentucky Revised Statutes
l - liter
mg - milligram
MRP - mining and reclamation plan
MSHA - Mine Safety and Health Administration
NPDES - National Pollutant Discharge Elimination System
OSM - Office of Surface Mining Reclamation and Enforcement, United States Department of the Interior
SCS - Soil Conservation Service
SMCRA - Surface Mining Control and Reclamation Act of 1977 (P.L. 95-87), as amended
USDA - United States Department of Agriculture
USDI - United States Department of the Interior
U.S. EPA - United States Environmental Protection Agency
USGS - United States Geological Survey.

CARL H. BRADLEY, Secretary
FRANK DICKERSON, Commissioner
APPROVED BY AGENCY: April 12, 1991
FILED WITH LRC: April 12, 1991 at noon

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Surface Mining Reclamation and Enforcement
(Amended After Hearing)

405 KAR 8:010. General provisions for permits.

RELATES TO: KRS 350.020, 350.055, 350.060, 350.070, 350.085, 350.090, 350.130, 350.135, 350.450, 350.465, 27 CFR 55.206, 55.218, 55.219, 55.220, 30 CFR 77.1301(c), 30 CFR Parts 730, 733, 735, 773-775, 777, 778.17, 917, 30 USC 1253, 1255-1261, 1263-1266, 1272

STATUTORY AUTHORITY: KRS Chapter 13A, 350.020, 350.028, 350.060, 350.135, 350.450, 350.465, 30 CFR Parts 730, 733, 735, 773-775, 777, 778.17, 917, 30 USC 1253, 1255-1261, 1263-1266, 1272

NECESSITY AND FUNCTION: KRS Chapter 350 in pertinent part requires the cabinet to promulgate rules and regulations pertaining to permits for surface coal mining and reclamation operations. This regulation provides for permits to conduct these operations. The regulation specifies when permits are required, application deadlines, requirements for applications for permanent program permits, fees, verification of applications, public notice requirements, submission of comments on permit applications, the right to file objections, informal conferences, review of the permit applications, criteria for application approval or denial and relevant actions, term of the permits, conditions of permits, review of outstanding permits, revisions of permits and renewals, transfers, assignments, and sales of permit rights.

Section 1. Applicability. Excluding coal exploration operations, this regulation shall apply to all applications, all actions regarding permits, and all surface coal mining and reclamation operations.

Section 2. General Requirements. (1) Permanent program permits required. No person shall engage in surface coal mining and reclamation operations unless that person has first obtained a valid permanent program permit under this chapter for the area to be affected by the operations.

(2) General filing requirements for permanent program permit applications.

(a) Each person who intends to engage in surface coal mining and reclamation operations shall file a complete and accurate application for a permanent program permit which shall comply fully with all applicable requirements of KRS Chapter 350 and 405 KAR Chapters 7 through 24, and shall not begin the operations until the permit has been granted.

(b) Renewal of valid permanent program permits. An application for renewal of a permit under Section 21 of this regulation shall be filed with the cabinet at least 120 days before the expiration of the permit.

(c) Revision of permanent program permits. A permittee may, at any time, apply for a revision of a permit, but shall not vary from the requirements of the permit until the revision has been approved by the cabinet. The term of a permit shall remain unchanged by a revision.

(d) Succession to rights granted under prior permanent program permits. An application for the transfer, sale, or assignment of rights

granted under a permit may be submitted at any time. The actual transfer, sale, or assignment of permit rights, however, may not take place until written permission has been granted by the cabinet.

(e) Amendment of permanent program permits. A permittee may, at any time, apply for an amendment to a permit under Section 23 of this regulation, but shall not begin surface coal mining and reclamation operations on the areas until the amendment has been approved by the cabinet. The term of a permit shall remain unchanged by an amendment.

(3) Compliance with permits. Any person engaging in surface coal mining and reclamation operations under a permit issued pursuant to KRS Chapter 350 shall comply with the terms and conditions of the permit, including the plans and other documents submitted as part of the application and approved by the cabinet, and the applicable requirements of KRS Chapter 350 and 405 KAR.

Section 3. Coordination of Review of Permit Applications. (1) For the purposes of avoiding duplication, the cabinet shall coordinate the review and issuance of permits for surface coal mining and reclamation operations with:

(a) Any other federal or Kentucky permit process applicable to the proposed operations, as required by Section 503 of SMCRA; and

(b) Applicable requirements of the Endangered Species Act of 1973, as amended (16 USC 1531 et seq.); the Fish and Wildlife Coordination Act, as amended (16 USC 661 et seq.); the Migratory Bird Treaty Act of 1918, as amended (16 USC 703 et seq.); the National Historic Preservation Act of 1966, as amended (16 USC 470 et seq.); and the Bald Eagle Protection Act, as amended (16 USC 668a), as required by 30 CFR 773.12.

(2) This coordination shall be accomplished by providing the appropriate agencies with an opportunity to comment on permit applications as set forth in Section 8(6) and (7) of this regulation and, if necessary, by any other measures the cabinet may deem appropriate.

Section 4. Preliminary Requirements. A person desiring a permit shall submit to the cabinet a preliminary application of the form and content prescribed by the cabinet. The preliminary application shall contain pertinent information, including a map at a scale of one (1) inch equals 400 or 500 feet, marked to show the proposed permit area and adjacent areas; and the areas of land to be affected, including, but not limited to, locations of the coal seam(s) to be mined, access roads, haul roads, spoil or coal waste disposal areas, and sedimentation ponds. Areas so delineated on the map shall be physically marked at the site in a manner prescribed by the cabinet. Personnel of the cabinet shall conduct, within fifteen (15) working days after filing, an on-site investigation of the area with the person or his or her representatives and representatives of appropriate local, state or federal agencies, after which the person may submit a permit application.

Section 5. General Format and Content of Applications. (1)(a) Applications for permits to conduct surface coal mining and reclamation operations shall be filed in the number, form and content required by the cabinet, including a copy to be filed for public inspection under Section 8(8) of this regulation.

(b) The application shall be on forms provided by the cabinet, and originals and copies of the application shall be prepared, assembled and submitted in the number, form and manner prescribed by the cabinet with attachments, plans, maps, certifications, drawings, calculations or other documentation or relevant information as the cabinet may require.

(c) The application shall be complete with respect to all information required by 405 KAR and include, at a minimum: for surface mining activities, all the applicable information required under 405 KAR 8:030; for underground mining activities, all the information required under 405 KAR 8:040; and, for special types of surface coal mining and reclamation operations, all the information required under 405 KAR 8:050. No application shall be determined to be administratively complete unless all design plans for the permit area are in detailed form.

(2) Information set forth in the application shall be current, presented clearly and concisely, and supported by appropriate references to technical and other written material available to the cabinet.

(3) The collection and analysis of all technical data submitted in the application shall be planned by or conducted under the direction of a professional qualified in the subject to be analyzed and shall be accompanied by:

(a) Names of persons or organizations which collected and analyzed the data;

(b) Dates of the collection and analyses; and

(c) Descriptions of methodology used to collect and analyze the data.

(4) The application shall state the name, address and position of officials of each private or academic research organization or governmental agency who provided information which has been made a part of the application regarding land uses, soils, geology, vegetation, fish and wildlife, water quantity and quality, air quality, and archaeological, cultural, and historic features.

(5)(a) The applicant shall designate in the permit application either himself or some other person who will serve as agent for service of notices and orders. The designation shall identify the person by full name and complete mailing address, and if a natural person, the person's Social Security number. The person shall continue as agent for service of process until a written revision of the permit has been made to designate another person as agent.

(b) The applicant may designate persons authorized by the applicant to submit modifications to the application to the cabinet. If the designation has not been made in the application, or in separate correspondence, the cabinet shall accept modifications only from the applicant.

(6) General requirements for maps and plans.

(a) If any of the information marked on the preliminary map required under Section 4 of this regulation has changed, the application shall contain an updated USGS seven and one-half (7 1/2) minute topographic map marked as required in Section 4 of this regulation.

(b) Maps submitted with applications shall be presented in a consolidated format, to the extent possible, and shall include the types of information set forth on topographic maps of the

U.S. Geological Survey of the 1:24,000 scale series. Maps of the permit area and adjacent areas shall be at a scale of 400 or 500 feet to the inch, inclusive; and the scale shall be clearly shown on the map. However, when the cabinet determines that a map scale larger than 400 feet to the inch is required to adequately show mine site details, a map of larger scale shall be provided by the applicant. The map required by 405 KAR 8:030, Section 23(1)(a) or 405 KAR 8:040, Section 23(1)(a), regarding additional areas on which permits will be sought, shall be a USGS seven and one-half (7 1/2) minute (1:24,000) topographic map.

(c) Where a map or drawing is required to be certified by a qualified registered professional engineer, the map or drawing shall bear the seal and signature of the engineer as required by KRS Chapter 322, and shall be certified in accordance with 405 KAR 7:040, Section 10.

(d) All engineering design plans submitted with applications shall be prepared by or under the direction of a qualified registered professional engineer and shall bear the engineer's seal, signature, and certification as required by KRS Chapter 322 and 405 KAR 7:040, Section 10.

(e) Maps and plans submitted with the application shall clearly identify all previously mined areas as defined at 405 KAR 16:190, Section 7(2)(c) or 405 KAR 18:190, Section 5(2)(c).

(7) Referenced materials. If used in the application, referenced materials shall either be provided to the cabinet by the applicant or be readily available to the cabinet. If provided, relevant portions of referenced published materials shall be presented briefly and concisely in the application by photocopying or abstracting and with explicit citations.

Section 6. Application and Acreage Fees. (1) Each application for a surface coal mining and reclamation permit shall be accompanied by a fee determined by the cabinet. The fee may be less than, but shall not exceed the actual or anticipated cost of reviewing, administering and enforcing the permit.

(2) The applicant shall submit an application fee of $375 for each application, plus an additional seventy-five (75) for each acre or fraction thereof of the area of land to be affected by the operation. If the cabinet approves an incremental bonding plan submitted by the applicant, the acreage fees may be paid individually as the bond for each increment is submitted. However, no acreage fees shall be required for surface areas overlying underground or auger workings which will not be affected by surface operations and facilities.

(3) The fee shall accompany the application in the form of a cashier's check or money order payable to the Kentucky State Treasurer. No permit application shall be processed unless the application fee has been paid.

Section 7. Verification of Application. Applications for permits; revisions; amendments; renewals; or transfers, sales, or assignments of permit rights shall be verified under oath, before a notary public, by the applicant or his authorized representative, that the information contained in the application is true and correct to the best of the official's information and belief.

Section 8. Public Notice of Filing of Permit Applications. (1) An applicant for a permit, major revision, amendment, or renewal of a permit shall place an advertisement in the newspaper of largest bona fide circulation, according to the definition in KRS 424.110 to 424.120, in the county where the proposed surface coal mining and reclamation operations are to be located.

(2)(a) The first advertisement shall be published on or after the date the application is submitted to the cabinet. The applicant may elect to begin publication on or after the date the applicant receives the notification from the cabinet under Section 13(2) of this regulation that the application has been deemed administratively complete and ready for technical review. The advertisement shall be published at least once each week for four (4) consecutive weeks, with the final consecutive weekly advertisement being published after the applicant's receipt of written notice from the cabinet that the application has been deemed administratively complete and ready for technical review.

(b) The final consecutive weekly advertisement shall clearly state that it is the final advertisement, and that written objections to the application may be submitted to the cabinet until thirty (30) days after the date of the final advertisement.

(3) Within fifteen (15) days of the final date of publication of the advertisement, the applicant shall submit to the cabinet proof of publication of the required final four (4) consecutive weekly notices, satisfactory to the cabinet, which may consist of an affidavit from the publishing newspaper certifying the dates, place and content of the advertisements.

(4) The advertisement shall be entitled "Notice of Intention to Mine" and shall be of a form specified by the cabinet.

(5) The advertisement shall contain, at a minimum, the following information:

(a) The name and business address of the applicant; and

(b) A map or description which shall:

1. Clearly show or describe towns, rivers, streams, and other bodies of water, local landmarks, and any other information, including routes, streets, or roads and accurate distance measurements, necessary to allow local residents to readily identify the proposed permit area;

2. Clearly show or describe the exact location and boundaries of the proposed permit area;

3. State the name of the U.S. Geological Survey seven and one-half (7 1/2) minute quadrangle map(s) which contains the area shown or described; and

4. If a map is used, show the north arrow and map scale.

(c) The location where a copy of the application is available for public inspection under subsection (8) of this section;

(d) The name and address of the cabinet to which written comments, objections, or requests for permit conferences on the application may be submitted under Sections 9, 10, and 11 of this regulation;

(e) If an applicant seeks a permit to mine within 100 feet of the outside right-of-way of a public road or to relocate or close a public road; except where public notice and hearing have been previously provided for this particular part of road in accordance with 405

KAR 24:040, Section 2(6)(a) and (b); a concise statement describing the public road, the particular part to be relocated or closed, and the approximate timing and duration of the relocation or closing;

(f) If the application includes a request for an experimental practice under 405 KAR 7:060, a statement indicating that an experimental practice is requested and identifying the regulatory requirement for which a variance is requested; and

(g) The application number.

(6) Within five (5) working days after the application for a permit, major revision, amendment, or renewal of a permit has been determined to be administratively complete, the cabinet shall issue written notification of:

(a) The applicant's intention to conduct surface coal mining and reclamation operations on a particularly described tract of land;

(b) The application number;

(c) Where a copy of the application may be inspected; and

(d) Where comments on the application may be submitted under Section 9 of this regulation.

(7) The written notifications required by subsection (6) of this section shall be sent to:

(a) Local government agencies with jurisdiction over or an interest in the area of the proposed operations, including, but not limited to, planning agencies and sewage and water treatment authorities and water companies, either providing sewage or water services to users in the area of the proposed operations or having water sources or collection, treatment, or distribution facilities located in these areas; and

(b) All federal and Kentucky governmental agencies which have the authority to issue permits and licenses applicable to the proposed surface coal mining and reclamation operation and which are a part of the permit coordination process required by Section 3 of this regulation; and

(c) Those agencies with an interest in the particular proposed operation including, but not limited to:

1. The USDA Soil Conservation Service State Conservationist;

2. The local U.S. Army Corps of Engineers district engineer;

3. The National Park Service;

4. Kentucky and federal fish and wildlife agencies; and

5. The state historic preservation officer.

(8) In accordance with Section 12 of this regulation, the cabinet shall, upon receipt of the application, make the application available for public inspection and copying during all normal working hours at the appropriate regional office of the cabinet where the mining has been proposed, and shall provide reasonable assistance to the public in the inspection and copying of the application.

Section 9. Submission of Comments or Objections by Public Agencies. (1) Written comments or objections on applications for permits, major revisions, amendments, and renewals of permits may be submitted to the cabinet by the public agencies to whom notification has been provided under Section 8(6) and (7) of this regulation with respect to the effects of the proposed mining operations on the environment within their area of responsibility.

(2) These comments or objections shall be submitted to the cabinet in the manner prescribed by the cabinet, and shall be submitted within thirty (30) calendar days after the date of the written notification by the cabinet pursuant to Section 8(6) and (7) of this regulation.

(3) The cabinet shall immediately file a copy of all comments or objections at the appropriate regional office of the cabinet for public inspection under Section 8(8) of this regulation. A copy shall also be transmitted to the applicant.

Section 10. Right to File Written Objections. (1) Any person whose interests are or may be adversely affected or an officer or head of any federal, state, or local government agency or authority to be notified under Section 8 of this regulation shall have the right to file written objections to an application for a permit, major revision, amendment, or renewal of a permit with the cabinet, within thirty (30) days after the last publication of the newspaper notice required by Section 8(1) of this regulation.

(2) The cabinet shall, immediately upon receipt of any written objections:

(a) Transmit a copy of the objections to the applicant; and

(b) File a copy at the appropriate regional office of the cabinet for public inspection under Section 8(8) of this regulation.

Section 11. Permit Conferences. (1) Procedure for requests. Any person whose interests are or may be adversely affected by the decision on the application, or the officer or head of any federal, state or local government agency or authority to be notified under Section 8 of this regulation may, in writing, request that the cabinet hold an informal conference on any application for a permit, major revision, amendment, or renewal of a permit. The request shall:

(a) Briefly summarize the issues to be raised by the requester at the conference;

(b) State whether the requester desires to have the conference conducted in the locality of the proposed mining operations; and

(c) Be filed with the cabinet not later than thirty (30) days after the last publication of the newspaper advertisement placed by the applicant under Section 8(1) of this regulation.

(2) Except as provided in subsection (3) of this section, if a permit conference has been requested in accordance with subsection (1) of this section, the cabinet shall hold a conference within twenty (20) working days after the last date to request a conference under subsection (1)(c) of this section. The conference shall be conducted according to the following:

(a) If requested under subsection (1)(b) of this section, the conference shall be held in the locality of the proposed mining.

(b) The date, time, and location of the conference shall be sent to the applicant and parties requesting the conference and advertised once by the cabinet in the newspaper of largest bona fide circulation, according to the definition in KRS 424.110 to 424.120, in the county where the proposed surface coal mining and reclamation operations are to be located, at least two (2) weeks prior to the scheduled

conference.

(c) If requested, in writing, by a conference requester in a reasonable time prior to the conference, the cabinet may arrange with the applicant to grant parties to the conference access to the permit area and, to the extent that the applicant has the right to grant access, to the adjacent areas prior to the established date of the conference for the purpose of gathering information relevant to the conference.

(d) The requirements of 405 KAR 7:090 shall not apply to the conduct of the conference. The conference shall be conducted by a representative of the cabinet, who may accept oral or written statements and any other relevant information from any party to the conference. An electronic or stenographic record shall be made of the conference proceedings, unless waived by all the parties. The record shall be maintained and shall be accessible to the parties of the conference until final release of the applicant's performance bond or other equivalent guarantee pursuant to 405 KAR Chapter 10.

(3) If all parties requesting the conference stipulate agreement before the requested conference and withdraw their requests, the conference need not be held.

(4) Permit conferences held in accordance with this section may be used by the cabinet as the public hearing required under 405 KAR 24:040, Section 2(6) on proposed relocation and closure of public roads.

Section 12. Public Availability of Information in Permit Applications on File with the Cabinet. (1) General availability.

(a) The cabinet shall make an application for a permit, major or minor revision, amendment, or renewal of a permit available for the public to inspect and copy by placing a full copy of the application at the regional office for the area in which mining shall occur. The application will be made available by the cabinet for public inspection and copying, at reasonable times, in accordance with Kentucky open records statutes, KRS 61.870 to 61.884. This copy need not include confidential information exempt from disclosure under subsections (2) and (3) of this section.

(b) The application required by paragraph (a) of this subsection shall be placed at the appropriate regional office no later than the first date of newspaper advertisement of the application.

(c) The applicant shall be responsible for placing all changes in the copy of the application retained at the regional office when the changes are submitted to the Division of Permits.

(2) Information pertaining to coal seams, test borings, core samples, or soil samples in applications shall be made available for inspection and copying to any person with an interest which is or may be adversely affected.

(3) Confidentiality. The cabinet shall provide for procedures to ensure the confidentiality of qualified confidential information. Confidential information shall be clearly identified by the applicant and submitted separately from the remainder of the application. Where a dispute arises concerning the disclosure or nondisclosure of confidential information, the cabinet shall provide notice and convene a hearing in accordance with 405 KAR 7:090. Confidential information shall be limited to the following:

(a) Information that pertains only to the analysis of the chemical and physical properties of the coal to be mined, except information on components of the coal which are potentially toxic in the environment;

(b) Information on the nature and location of archaeological resources on public land and Indian land as required under the Archaeological Resources Protection Act of 1979.

Section 13. Department Review of Applications for Permits, Revisions, Amendments, and Renewals. (1) General.

(a) The cabinet shall review the application for a permit, revision, amendment, or renewal; written comments and objections submitted; and records of any permit conference held on the application and make a written decision, within the time frames listed in Section 16(1) of this regulation, concerning approval of, requiring modification of, or concerning rejection of the application.

(b) An applicant for a permit, revision, or amendment shall have the burden of establishing that the application is in compliance with all requirements of KRS Chapter 350 and 405 KAR Chapters 7 through 24.

(2)(a) Administrative completeness determination. Within ten (10) working days of initial receipt of the application the cabinet shall provide written notification to the applicant as to the administrative completeness of the application. If the application is determined to be incomplete, the cabinet shall notify the applicant within ten (10) working days after initial receipt of the application by certified mail, return receipt requested, or by registered mail, of the deficiencies which render the application incomplete. The applicant may submit supplemental information to correct the identified deficiencies for a period of ten (10) working days after the applicant's receipt of the initial notice of incompleteness. If, after ten (10) working days, the cabinet determines that the application is still incomplete, the cabinet shall return the incomplete application to the applicant with written notification of the reasons for the determination.

(b) A determination by the cabinet that the application is administratively complete means that the application contains the major elements required by KRS Chapter 350 and 405 KAR Chapters 7 through 24 which are necessary to allow meaningful review of the application by the cabinet. An application shall not be deemed administratively complete if one (1) or more major elements are found to be absent from the application, which, by virtue of their absence, would require that the permit be denied. A determination that an application is administratively complete shall not mean that the application is complete in every detail, nor shall it mean that any aspect of the application is technically sufficient or approvable.

(3) Processing of the administratively complete application. Within the time periods set forth in Section 16 of this regulation, the cabinet shall either:

(a) Notify the applicant of the cabinet's decision to issue or deny the application; or

(b) Notify the applicant in writing, by certified mail, return receipt requested, or by

registered mail, promptly upon discovery of deficiencies in the application and allow the application to be temporarily withdrawn for the purpose of correcting the deficiencies. Temporary withdrawal periods shall not be counted against the time available to the cabinet for consideration of the application.

(4) Review of violations.

(a) Based on available information concerning failure-to-abate cessation orders issued by OSM, Kentucky, or any other state; unabated imminent harm cessation orders issued by OSM, Kentucky, or any other state; delinquent civil penalties assessed pursuant to SMCRA, federal regulations enacted pursuant to SMCRA, KRS Chapter 350 and regulations adopted pursuant thereto, or any other state's laws or regulations under SMCRA; bond forfeitures by OSM, Kentucky, or any other state where violations upon which the forfeitures were based have not been corrected; delinquent abandoned mine reclamation fees; and unabated violations of federal, Kentucky, and any other state's laws, rules and regulations pertaining to air or water environmental protection incurred in connection with any surface coal mining operation, the cabinet shall not issue the permit if any surface coal mining reclamation operation owned or controlled by either the applicant or by any person who owns or controls the applicant is currently in violation of SMCRA, federal regulations enacted pursuant to SMCRA, KRS Chapter 350 and regulations adopted pursuant thereto, any other state's laws or regulations under SMCRA, or any other law, rule, or regulation referred to in this subsection. In the absence of a failure-to-abate cessation order, the cabinet may presume that a notice of violation issued by OSM, Kentucky, or any other state pursuant to its laws and regulations under SMCRA has been or is being corrected to the satisfaction of the agency with jurisdiction over the violation, except where evidence to the contrary is set forth in the permit application, or where the violation is for nonpayment of abandoned mine reclamation fees or civil penalties. If a current violation exists, the cabinet shall require the applicant or person who owns or controls the applicant, before issuance of the permit, to either: [If the cabinet determines from either the lists submitted as part of the application under 405 KAR 8:030, Section 3(3) or 405 KAR 8:040, Section 3(3), or from other available information, that any surface coal mining operation owned or controlled by the applicant is currently in violation of any law, rule, or regulation of the United States or any state law, rule, or regulation enacted pursuant to federal law, rule, or regulation, pertaining to air or water environmental protection, or of SMCRA or KRS Chapter 350, and regulations promulgated pursuant thereto, the cabinet shall require the applicant, before the issuance of the permit, to either:]

1. [(a)] Submit to the cabinet proof that the current violation has been or is in the process of being corrected to the satisfaction of the agency that has jurisdiction over the violation [which is satisfactory to the cabinet and other agencies which have jurisdiction over the violation, that the violation has been or is in the process of being corrected]; or

2. Establish for the cabinet that the applicant, or any person owned or controlled by either the applicant or any person who owns or controls the applicant, has filed and is presently pursuing, in good faith, a direct administrative or judicial appeal to contest the validity of the current violation. If the initial judicial review authority affirms the violation, then the applicant shall within thirty (30) days of the judicial action submit proof required under subparagraph 1 of this paragraph.

(b) Any permit that is issued on the basis of proof submitted under paragraph (a)1 of this subsection that a violation is in the process of being corrected, or pending the outcome of an appeal described in paragraph (a)2 of this subsection, shall be conditionally issued.

(c) If the cabinet makes a finding that the applicant, anyone who owns or controls the applicant, or the operator specified in the application, controls or has controlled surface coal mining and reclamation operations with a demonstrated pattern of willful violations of KRS Chapter 350 and regulations adopted pursuant thereto of such nature and duration, and with resulting irreparable damage to the environment as to indicate an intent not to comply with those laws or regulations, no permit shall be issued. Before such a finding becomes final, the applicant or operator shall be afforded an opportunity for an adjudicatory hearing on the determination as provided for in 405 KAR 7:090, Section 5(1)(a).

[(b) Establish to the cabinet that the applicant has filed and is presently pursuing, in good faith, a direct administrative or judicial appeal to contest the validity of that violation. In this case, the permit shall contain a condition requiring that if the administrative or initial judicial hearing authority either denies a stay applied for in the appeal, or affirms the violation, then any surface coal mining operations being conducted under the permit shall be terminated unless and until the permittee complies with paragraph (a) of this subsection. For loss of appeal on violations of laws or regulations of the United States or states other than Kentucky, operations shall be terminated under this paragraph only when the cabinet has actual, verified notice of the loss of appeal and the subsequent failure of the permittee to correct or begin correcting the violation; and the termination shall be set aside by the cabinet only when the cabinet has actual, verified notice that the permittee has corrected the violation or is in the process of correcting the violation.]

(5) Final compliance review. After an application is approved, but before the permit is issued, the cabinet shall reconsider its decision to approve the application, based on the compliance review required by subsection (4)(a) of this section in light of any new information submitted under 405 KAR 8:030, Sections 2(11) and 3(4), or 405 KAR 8:040, Sections 2(11) and 3(4). [No permit shall be issued if the cabinet determines that the applicant, or the operator specified in the application, controls or has controlled mining operations with a demonstrated pattern of willful violation of SMCRA, KRS Chapter 350, or 405 KAR Chapters 7 through 24 of such a nature and duration and with such resulting "irreparable damage to the environment" (as defined in 405 KAR 7:020) that indicates an intent not to comply with SMCRA, KRS Chapter 350, or 405 KAR Chapters 7 through 24. Before

any final determination by the cabinet pursuant to this subsection the applicant or operator shall be afforded an opportunity for an adjudicatory hearing on the determination as provided for in 405 KAR 7:090.]

Section 14. Criteria for Application Approval or Denial. No application for a permit, revision (as applicable), or amendment of a permit shall be approved unless the application affirmatively demonstrates and the cabinet finds, in writing, on the basis of information set forth in the application or from information otherwise available, which has been documented in the approval, that:

(1) The permit application is complete and accurate and in compliance with all requirements of KRS Chapter 350 and 405 KAR Chapters 7 through 24.

(2) The applicant has demonstrated that surface coal mining and reclamation operations, as required by KRS Chapter 350 and 405 KAR Chapters 7 through 24 can be feasibly accomplished under the mining and reclamation plan contained in the application.

(3) The assessment of the probable cumulative impacts of all anticipated coal mining in the cumulative impact area on the hydrologic balance has been made by the cabinet and the operations proposed under the application have been designed to prevent material damage to the hydrologic balance outside the proposed permit area.

(4) The proposed permit area is:

(a) Not included within an area designated unsuitable for surface coal mining operations under 405 KAR 24:030;

(b) Not within an area under study for designation as unsuitable for surface coal mining operations in an administrative proceeding begun under 405 KAR 24:030, unless the applicant demonstrates that, before January 4, 1977, he or she made substantial legal and financial commitments in relation to the operation for which he or she is applying for a permit;

(c) Not on any lands subject to the prohibitions or limitations of 405 KAR 24:040, Section 2(1), (2) or (3);

(d) Not within 100 feet of the outside right-of-way line of any public road, except as provided for in 405 KAR 24:040, Section 2(6); and

(e) Not within 300 feet from any occupied dwelling, except as provided for in 405 KAR 24:040, Section 2(5).

(5)(a) The proposed operations will not adversely affect any publicly-owned parks or any places included on the National Register of Historic Places, except as provided for in 405 KAR 24:040, Section 2(4); and

(b) The cabinet has taken into account the effect of the proposed operations on properties listed and eligible for listing on the National Register of Historic Places. This finding may be supported in part by inclusion of appropriate permit conditions or changes in the mining and reclamation plan to protect historic resources, or a documented decision that the cabinet has determined that no additional protection measures are necessary.

(6) For operations involving the surface mining of coal where the private mineral estate to be mined has been severed from the private surface estate, the applicant has submitted to the cabinet the documentation required under 405 KAR 8:030, Section 4(2) or 405 KAR 8:040, Section 4(2).

(7) With regard to current violations, the applicant has either:

(a) Submitted the proof required by Section 13(4)(a) of this regulation; or

(b) Made the demonstration required by Section 13(4)(b) of this regulation.

(8) The applicant has paid all reclamation fees from previous and existing operations as required by 30 CFR 870, or has entered into a payment schedule approved by OSM.

(9) The applicant or the operator, if other than the applicant, does not control and has not controlled mining operations with a demonstrated pattern of willful violations of SMCRA or KRS Chapter 350 of such a nature and duration and with such resulting "irreparable damage to the environment" (as defined in 405 KAR 7:020) as to indicate an intent not to comply with SMCRA or KRS Chapter 350.

(10) The applicant has demonstrated that any existing structure will comply with 405 KAR 8:030, Section 25 and 405 KAR 8:040, Section 25, and the applicable performance standards of KAR 405 KAR Chapters 16 and 18.

(11) The applicant has, if applicable, satisfied the requirements for approval of a long-term, intensive agricultural postmining land use.

(12) The applicant can reasonably be expected to submit the performance bond or other equivalent guarantee required under 405 KAR Chapter 10 prior to the issuance of the permit.

(13) The applicant has, with respect to prime farmland obtained either a negative determination or satisfied the requirements of 405 KAR 8:050, Section 3.

(14) The applicant has satisfied the applicable requirements of 405 KAR 8:050 regarding special categories of mining.

(15) The cabinet has made all specific approvals required under 405 KAR Chapters 16 through 20.

(16) The cabinet has found that the activities would not affect the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitats as determined under the Endangered Species Act of 1973 (16 USC 1531 et seq.).

(17) The applicant has not forfeited any bond under KRS Chapter 350. When the applicant has forfeited a bond, the permit may be issued if the land for which the bond was forfeited has been satisfactorily reclaimed without cost to the state or the operator or person has paid a sum that the cabinet finds is adequate to reclaim the land.

(18) The applicant has not had a permit revoked, suspended or terminated under KRS Chapter 350. If the applicant has had a permit revoked, suspended or terminated, another permit may be issued, or a suspended permit may be reinstated, only if the applicant has complied with all of the requirements of KRS Chapter 350 or submitted proof satisfactory to the cabinet that the violation has been corrected or is in the process of being corrected, in respect to all permits issued to him or her.

(19) The operation will not constitute a hazard to or do physical damage to a dwelling house, public building, school, church, cemetery, commercial or institutional building, public road, stream, lake, or other public

property.

(20) The surface coal mining operation will not adversely affect a wild river established pursuant to KRS Chapter 146 or a state park unless adequate screening and other measures as approved by the cabinet have been incorporated into the permit application and the surface coal mining operation has been jointly approved by all affected agencies as set forth under 405 KAR 24:040.

(21) For a proposed remining operation where the applicant intends to reclaim in accordance with the requirements of 405 KAR 16:190, Section 7 or 405 KAR 18:190, Section 5, the applicant has demonstrated, to the satisfaction of the cabinet, that the site of the operation will be a previously mined area as defined in those sections.

Section 15. Criteria for Application Approval or Denial Regarding Existing Structures. No application for a permit, revision, or amendment which proposes to use an existing structure in connection with or to facilitate the proposed surface coal mining and reclamation operation shall be approved, unless the applicant demonstrates and the cabinet finds, in writing, on the basis of information set forth in the complete and accurate application, that the provisions of 405 KAR 7:040, Section 4, have been met.

Section 16. Application Approval or Denial Actions. (1) The cabinet shall take action on applications within the following time periods as appropriate:

(a)1. Except as provided for in paragraph (b) of this subsection, for a complete and accurate application submitted under Section 2(2)(a), (b), (d), and (e) of this regulation, a decision shall be made by the cabinet to approve, require modification of, or deny the application within sixty-five (65) working days after the notice of administrative completeness under Section 13(2) of this regulation, except that periods of temporary withdrawal under Section 13(3)(b) of this regulation shall not be counted against the sixty-five (65) working-day period available to the cabinet.

2. Except as provided in paragraph (b) of this subsection, for a complete and accurate application submitted under Section 2(2)(c) of this regulation of a major revision as provided in Section 20 of this regulation, a decision shall be made by the cabinet to approve, require modification of, or deny the application within forty-five (45) working days after the notice of administrative completeness under Section 13(2) of this regulation, except that periods of temporary withdrawal under Section 13(3)(b) of this regulation shall not be counted against the forty-five (45) working-day period available to the cabinet.

3. For a complete and accurate application submitted under Section 2(2)(c) of this regulation for a minor revision as provided in Section 20 of this regulation, a decision shall be made by the cabinet to approve, require modification of, or deny the application within fifteen (15) working days after the notice of administrative completeness under Section 13(2) of this regulation, except that periods of temporary withdrawal under Section 13(3)(b) of this regulation shall not be counted against the fifteen (15) working-day period available to the cabinet.

(b) If the notice, hearing and conference procedures mandated by KRS Chapter 350 and 405 KAR prevent a decision from being made within the time periods specified in paragraph (a) of this subsection, the cabinet shall have additional time to issue its decision, but not to exceed twenty (20) days from the completion of the notice, hearing and conference procedures.

(2) The cabinet shall issue written notification of the decision to approve, modify, or deny the application, in whole or part, to the following persons and entities:

(a) The applicant;

(b) Each person who files comments or objections to the permit application;

(c) Each party to an informal permit conference, if held;

(d) The county judge-executive of the county, and the chief executive officer of any municipality, in which the permit area lies. This notice shall be sent within ten (10) days after the issuance of the permit and shall include a description of the location of the permit area; and

(e) The field office director of the Office of Surface Mining Reclamation and Enforcement.

(3) If the application has been denied, the notification required in subsection (2) of this section, for the applicant, any person filing objections to the permit and parties to an informal conference, shall include specific reasons for the denial.

(4) If the cabinet decides to approve the application, it shall require that the applicant file the performance bond before the permit is issued, in accordance with 405 KAR Chapter 10.

(5) The cabinet shall publish a summary of its decision in the newspaper of largest bona fide circulation, according to the definition in KRS 424.110 to 424.120, in the county where the proposed surface coal mining and reclamation operations are to be located.

Section 17. Term of Permit. (1) Each permit shall be issued for a fixed term not to exceed five (5) years. A longer fixed permit term may be granted at the discretion of the cabinet only if:

(a) The application is complete and accurate for the specified longer term; and

(b) The applicant shows that a specified longer term is reasonably needed to allow the applicant to obtain necessary financing for equipment and for the opening of the operation with the need confirmed, in writing, by the applicant's proposed source for the financing.

(2)(a) A permit shall terminate, if the permittee has not begun the surface coal mining and reclamation operation covered by the permit within three (3) years of the issuance of the permit.

(b) The cabinet may grant reasonable extensions of the time for commencement of these operations, upon receipt of a written statement showing that the extensions of time are necessary, if:

1. Litigation precludes the commencement or threatens substantial economic loss to the permittee; or

2. There are conditions beyond the control and without the fault or negligence of the permittee.

(c) With respect to coal to be mined for use in a synthetic fuel facility or specified major electric generating facility, the permittee

shall be deemed to have commenced surface mining operations when construction of the synthetic fuel or generating facility is initiated.

(d) Extensions of time granted by the cabinet under this subsection shall be specifically set forth in the permit and notice of the extension shall be made to the public.

(3) Permits may be suspended, revoked, or modified by the cabinet, in accordance with Section 19 of this regulation; Section 3 of 405 KAR 7:060; Sections 4, 6, and 7 of 405 KAR 8:050; and 405 KAR Chapter 12.

Section 18. Conditions of Permits. Actions by an applicant, permittee, or operator to submit an application to the cabinet, to accept a permit issued by the cabinet, or to begin operations pursuant to a permit issued by the cabinet, shall be deemed to constitute knowledge and acceptance of the conditions set forth in this section, which shall be applicable to each permit issued by the cabinet pursuant to this chapter whether or not the conditions have been set forth in the permit.

(1) General.

(a) The permittee shall comply fully with all terms and conditions of the permit and all applicable performance standards of KRS Chapter 350 and 405 KAR Chapters 7 through 24; and

(b) Except to the extent that the cabinet otherwise directs in the permit that specific actions be taken, the permittee shall conduct all surface coal mining and reclamation operations as described in the approved application; and

(c) The permittee shall conduct surface coal mining and reclamation operations only on those lands specifically designated as the permit area on the maps submitted under 405 KAR 8:030 or 405 KAR 8:040 and authorized for the term of the permit; and which are subject to the performance bond in effect pursuant to 405 KAR Chapter 10.

(2) Right of entry.

(a) Without advance notice, unreasonable delay, or a search warrant, and upon presentation of appropriate credentials, the permittee shall allow authorized representatives of the Secretary of the Interior and the cabinet to:

1. Have the rights of entry provided for in 405 KAR 12:010, Section 3; and

2. Be accompanied by private persons for the purpose of conducting a federal inspection when the inspection is in response to an alleged violation reported to the cabinet by the private person.

(b) The permittee shall allow the authorized representatives of the cabinet to be accompanied by private persons for the purpose of conducting an inspection pursuant to 405 KAR 12:030.

(3) Environment, public health, and safety.

(a) The permittee shall take all possible steps to minimize any adverse impact to the environment or public health and safety resulting from failure to comply with any term or condition of the permit, including, but not limited to:

1. Any accelerated or additional monitoring necessary to determine the nature and extent of failure to comply and the results of the failure to comply;

2. Immediate implementation of measures necessary to comply; and

3. Warning, as soon as possible after learning of the failure to comply, any person whose health and safety is in imminent danger due to the failure to comply.

(b) The permittee shall dispose of solids, sludge, filter backwash, or pollutants removed in the course of treatment or control of waters or emissions to the air in the manner required by 405 KAR Chapters 16 through 20, and which prevents violation of any other applicable Kentucky or federal law.

(c) The permittee shall conduct its operations:

1. In accordance with any measures specified in the permit as necessary to prevent significant, imminent environmental harm to the health or safety of the public; and

2. Utilizing any methods specified in the permit by the cabinet in approving alternative methods of compliance with the performance standards of KRS Chapter 350 and 405 KAR Chapters 16 through 20, in accordance with KRS Chapter 350 and 405 KAR Chapters 16 through 20.

(4) Reclamation fees. The permittee shall pay all reclamation fees required by 30 CFR 870 for coal produced under the permit for sale, transfer, or use, in the manner required by that subchapter.

(5) Within thirty (30) days after a cessation order is issued by OSM for operations conducted under the permit or after an order for cessation and immediate compliance is issued under 405 KAR 12:020, Section 3 for operations conducted under the permit, except where a stay of the order is granted and remains in effect, the permittee shall either submit to the cabinet the following information, current to the date the order was issued, or notify the cabinet in writing that there has been no change since the immediately preceding submittal of the information:

(a) Any new information needed to correct or update the information previously submitted to the cabinet by the permittee under 405 KAR 8:030, Section 2(3) or 405 KAR 8:040, Section 2(3); or

(b) If not previously submitted, the information required from a permit applicant by 405 KAR 8:030, Section 2(3) or 405 KAR 8:040, Section 2(3).

Section 19. Review of Permits. (1)(a) The cabinet shall review each permit issued under this chapter during the term of the permit. This review shall occur not later than the middle of the permit term and as required by 405 KAR 7:060 and 405 KAR 8:050, Sections 4, 6, and 7. Issued permits shall be reevaluated in accordance with the terms of the permit and the requirements of KRS Chapter 350 and 405 KAR Chapters 7 through 24, including reevaluation of the bond.

(b) For permits of longer than five (5) year terms, a review of the permit shall be no less frequent than the permit midterm or every five (5) years, whichever is more frequent.

(2) After the review required by subsection (1) of this section, or at any time, the cabinet may, by order, require revision or modification of the permit provisions to ensure compliance with KRS Chapter 350 and 405 KAR Chapters 7 through 24.

(3) Copies of the decision of the cabinet shall be sent to the permittee.

(4) Any order of the cabinet requiring revision or modification of permits shall be based upon written findings and shall be subject to the provisions for administrative and judicial review of 405 KAR 7:090.

Section 20. Permit Revisions. (1) General. A revision to a permit shall be obtained:

(a) For changes in the surface coal mining and reclamation operations described in the existing application and approved under the current permit.

(b) When a revision is required by an order issued under Section 19 of this regulation.

(c) In order to continue operation after the cancellation or material reduction of the liability insurance policy, performance bond, or other equivalent guarantee upon which the original permit was issued; or

(d) As otherwise required under 405 KAR Chapters 7 through 24.

(2) Major revision.

(a) A revision is a major revision if the proposed change is of such scope and nature that the cabinet determines that public notice is necessary to allow participation in the cabinet's decision by persons who have an interest which may be adversely affected by the proposed change. Major revisions shall include, but shall not be limited to:

1. Changes in the postmining land use;

2. Enlargement or relocation of impoundments so as to increase the safety hazard classification of the impoundment;

3. Variances to approximate original contour requirements;

4. Construction or relocation of roads, where the construction or relocation could adversely affect the interests of persons other than the surface owner;

5. Changes which may adversely affect significant fish and wildlife habitats or endangered species;

6. Proposed experimental practices;

7. Changes which may cause major impacts on the hydrologic balance;

8. Incidental boundary revisions that affect new watersheds;

9. Incidental boundary revisions that include diversions of perennial streams;

10. Incidental boundary revisions that include new areas from which coal will be removed, except these revisions shall be limited to ten (10) percent of the permit area acreage or five (5) acres, whichever is less.

(b) Major revisions shall be subject to all of the requirements of Sections 5; 7 through 12; 13(1), (2), (3); 14(1) through (6), (8), (10) through (16), (19) through (21); 15; 16; 18; and 24 of this regulation; and shall be submitted on forms prescribed by the cabinet. In addition to the requirements of Section 8(5) of this regulation, the advertisement shall contain a statement that the applicant proposes to revise the existing permit and shall contain a description of the proposed change.

(3) Minor revisions.

(a) All revisions which are not determined by the cabinet to be major revisions are minor revisions. Minor revisions shall be subject to Sections 5; 7; 12; 13(1), (2), (3); 14(1) through (6), (10) through (16), (19) through (21); 15; 16(1) through (4); 18; and 24 of this regulation, except that minor field revisions described in paragraph (d) of this subsection shall not be subject to the administrative completeness determination of Section 13(2) of this regulation, and the time frame for review in Section 16(1)(a)3 of this regulation shall begin at the time of application submittal. Minor revisions shall be submitted on forms prescribed by the cabinet.

(b) If the cabinet determines that a proposed minor revision is actually a major revision during the administrative completeness determination under Section 13 of this regulation, the cabinet shall so inform the applicant and return the application.

(c) The cabinet shall notify, in writing, those persons, if any, that the cabinet determines could have an interest that may be adversely affected by the proposed change. Those persons shall have the right to file written objections to the revision within ten (10) days of the date of the notification.

(d) The following minor revisions shall be deemed minor field revisions which may be reviewed and processed in accordance with this section by the appropriate regional office of the department. However, if the number of persons that potentially could have an interest that may be adversely affected by the proposed change is large enough that public notice by newspaper advertisement rather than individual notice by letter from the cabinet is necessary, the regional administrator shall determine that the proposed revision is a major revision and it shall not be processed under this paragraph.

1. Proposals for minor relocation of underground mine entries where:

a. There are no structures or "renewable resource lands" (as that term is defined in paragraph (b) of the definition provided in 405 KAR 7:020, Section 1) overlying the area;

b. There is no proposed change to the permit boundary; and

c. The proposed new location is on the same face-up area and coal seam as originally permitted, is within the same drainage area as the original location, is controlled by the same sedimentation pond, and there will be no additional disturbed acreage within the drainage area of that sedimentation pond.

2. Proposals for retention of concrete platforms and small buildings where:

a. There is no proposed change to the previously approved postmining land use; and

b. The application contains a notarized letter from the surface owner requesting retention of the structure.

3. Proposals to leave roads as permanent, except proposals involving roads to impoundments, excess spoil fills, coal mine waste fills, or air shafts; roads within 100 feet of an intermittent or perennial stream; and roads within areas designated unsuitable for mining under 405 KAR 24:040, Section 2, regardless of whether a previous waiver or approval has been granted. The application shall contain a notarized letter from the surface owner including a request to retain the road and a statement acknowledging that the surface owner understands that the operator has no responsibility for maintenance of the road after the performance bond has been released pursuant to 405 KAR 10:040 for the area in which the road is located.

4. Proposals to increase the diameter of culverts used as road crossdrains, not including culverts used for stream crossings, provided that the proposed culvert is the same type of pipe as the previously approved culvert.

5. Proposals to install additional culverts used as road crossdrains (not including culverts used for stream crossings), provided that the diameter of the proposed additional culvert is

equal to the diameter of the nearest downstream crossdrain and is the same type of pipe as the nearest downstream crossdrain.

6. Proposals for minor relocation of on-bench sediment control structures (dugouts only) in order to locate the structures at low spots on the same bench on which they were initially proposed, where:

a. The drainage area to the structure will remain the same as the original design;

b. The proposed location will not cause short-circuiting of the structure; and

c. There is no proposed change to the permit boundary.

7. Proposals to retain diversions of overland flow (not including stream diversions) as permanent facilities where:

a. The application contains a notarized letter from the surface owner including a request to retain the diversion and a statement accepting maintenance responsibilities for the diversions; and

b. The diversions have previously been designed to the standards for permanent diversions.

8. Proposals for relocation of topsoil storage areas where:

a. There is no proposed change to the permit boundary; and

b. The proposed new location was previously permitted as a disturbed area within the same drainage area as the original location, is controlled by the same sedimentation pond, and there will be no additional disturbed acreage within the drainage area of that sedimentation pond.

9. Proposals to substitute plant species where:

a. The proposed species is of the same vegetative type (grass, legume, tree, or shrub) as the original species;

b. The proposed species will serve the equivalent function of the original species with respect to the previously approved: revegetation plan, postmining land use plan, and the fish and wildlife protection and enhancement plan; and

c. The proposed species and its application or planting rate are compatible with the remainder of the previously approved species mixture to be planted.

10. Proposals to utilize hydroseeding for trees instead of planting trees or tree seedlings where:

a. Hydroseeding is an appropriate method for the tree species being established; and

b. No change in tree species is involved unless concurrently approved under subparagraph 9 of this paragraph.

11. Proposals to change the type of mulch to be utilized on the permit area, including a revised rate of application consistent with the different type of mulch proposed.

12. Proposals to retain small depressions in the reclaimed area.

13. Proposals required by the cabinet to increase frequency of air blast monitoring.

14. Proposals required by the cabinet to increase frequency of air pollution monitoring.

15. Proposals to employ more effective fugitive dust controls, and proposals required by the cabinet to employ additional fugitive dust controls.

16. Proposals to add a portable coal crusher where:

a. The crusher and associated conveying equipment are a completely portable, trailer mounted unit;

b. The equipment will be utilized to crush coal only from the permit area on which it is proposed to be located;

c. The operation will not generate coal mine waste;

d. There is no proposed change to the permit boundary; and

e. The equipment will always be located in the mining pit or other location previously permitted as a disturbed area controlled by a previously approved sedimentation pond and there will be no additional disturbed acreage or delayed reclamation within the drainage area of any of the sedimentation ponds.

17. Proposals to change the time periods, or the types or patterns of warning or all-clear signals, when explosives are to be detonated.

18. Proposals to relocate an explosive storage area within the existing permit area in accordance with 27 CFR 55.206, 55.218, 55.219, 55.220, and 30 CFR 77.1301(c).

19. Approval for minor relocation of support facilities such as conveyors, hoppers, and coal stockpiles where:

a. There is no proposed change to the permit boundary; and

b. The proposed new location was previously permitted as a disturbed area within the same drainage area as the original location, is controlled by the same sedimentation pond, and there will be no additional disturbed acreage within the drainage area of that sedimentation pond.

20. Proposals for modifications of shared facilities where that modification has already been approved in a revision for one of the permittees by the Division of Permits and no additional performance bond was required for the initial revision.

21. Proposals to add a hopper to a permitted area where:

a. There is no proposed change to the permit boundary; and

b. The proposed location was previously permitted as a disturbed area controlled by a previously approved sedimentation pond and there will be no additional disturbed acreage or delayed reclamation within the drainage area of that sedimentation pond.

22. Proposals to change the brush disposal plan, not including any proposals to bury brush in the backfill area on steep slopes or in excess spoil fills or coal mine waste fills.

23. Proposals to cut berms, provided that the cuts will not cause bypassing or short circuiting of on-bench structures or other sedimentation control structures.

24. Proposals to change the basis of judging revegetation from reference areas to the technical standards established in 405 KAR Chapters 7 through 24.

25. Proposals for incidental boundary revisions for minor off-permit disturbances where:

a. The total acreage of the minor off-permit disturbances is no more than one (1) acre combined per proposal;

b. The cumulative acreage limitation established in the definition of "incidental boundary revision" in 405 KAR 7:020 is not exceeded;

c. The area to be permitted does not include any wetlands, prime farmlands, stream buffer zones, federal lands, habitats of unusually high

value for fish and wildlife, areas that may contain threatened or endangered species, or areas designated unsuitable for mining under 405 KAR Chapter 24;

d. The off-permit disturbance was not a coal extraction area nor shall any future coal extraction occur on the area;

e. There are no structures such as excess spoil disposal fills, coal mine waste disposal fills or impoundments, or water impoundments involved;

f. The surface owner of the area to be permitted is a surface owner of disturbed area under the existing permit; and

g. An additional performance bond in the amount of $5000 has been filed by the permittee.

h. If deemed necessary for any reason, the regional administrator may decline to review and process any proposal to permit an off-permit disturbance as a minor field revision and instead require that an application be submitted to the Division of Permits.

26. Except as provided below, proposals to remove sedimentation ponds previously approved as permanent impoundments where the application contains a notarized letter from the surface owner requesting the elimination of the impoundment, the application contains an acceptable plan for removal, and the criteria for sedimentation pond removal have been met. However, proposals to remove sedimentation ponds in the following situations shall not be processed as minor field revisions:

a. Where the structure has a hazard classification of B or C;

b. Where the impoundment is a developed water resource land use;

c. Where the removal or activities associated with the removal of the structure may adversely affect significant fish and wildlife habitats or threatened or endangered species;

d. Where the impoundment may be a necessary element in the achievement of the previously approved postmining land use (such as a stock pond for pastureland where no other nearby source of water is available to the livestock); or

e. Where the impoundment was originally planned to be left for the purpose, in whole or in part, of enhancing fish and wildlife and related environmental values.

27. Proposals to approve exemptions from the requirement to pass drainage through sedimentation ponds for disturbed areas that, due to unexpected field conditions, will not drain to an approved sedimentation pond where:

a. There has not been any acid drainage or drainage containing concentrations of total iron or manganese from this or nearby areas of the mine that could result in water quality violations if untreated and none is expected based on overburden analysis;

b. The application contains a justification that it is not feasible to control the drainage by a sedimentation pond;

c. The disturbed area is one (1) acre or less;

d. The application contains a plan to immediately implement alternate sedimentation control measures including, at a minimum, mulching, silt fences, straw bale dikes and establishment of a quick growing temporary vegetative cover;

e. The application contains sufficient plan views and cross sections certified by a registered professional engineer to clearly illustrate the feasibility of the proposal and the location of the alternate control methods (minimum scale one (1) inch equals 100 feet); and

f. The application contains a MRP map certified by a registered professional engineer showing the location of the disturbed area and the drainage area clearly.

(e) Proposed minor revisions which only seek to change the engineering design of impoundments and diversions of overland flow where no change in permit boundary is involved shall not be subject to the administrative completeness determination of Section 13(2) of this regulation; however, the application shall be processed in, and written notice that the application has been determined to be subject to this paragraph and is being forwarded for technical review shall be provided to the applicant within ten (10) working days. The time frame for review in Section 16(1)(a)3 of this regulation shall begin at the time of this notice.

(4) Any extensions to the area covered by a permit, except for incidental boundary revisions, shall be made by application for a new or amended permit and shall not be approved under this section.

(5) Fees. Applications for major and minor revisions shall include a basic fee of $375, except that minor field revisions shall have no basic fee. If the revision application proposes incidental boundary revisions which would increase the acreage in the permit, an additional acreage fee of seventy-five (75) dollars per acre, or fraction thereof, shall be included with the application, except that no acreage fee shall be required for surface areas overlying underground workings which will not be affected by surface operations and facilities.

Section 21. Permit Renewals. (1) General requirements for renewal. Any valid, existing permit issued pursuant to this chapter shall carry with it the right of successive renewal, within the approved boundaries of the existing permit, upon expiration of the term of the permit.

(2) Contents of renewal applications. Applications for renewal of permits shall be submitted within the time prescribed by Section 2(2)(b) of this regulation. Renewal applications shall be in a form and with content as required by the cabinet and in accordance with this section, and shall include at a minimum:

(a) The name and address of the permittee, the term of the renewal requested and the permit number;

(b) A copy of the proposed newspaper notice and proof of publication of same under Section 8 of this regulation;

(c) Evidence that liability insurance under 405 KAR 10:030, Section 4, will be provided by the applicant for the proposed period of renewal;

(d) A renewal fee of $375;

(e) Evidence that the performance bond will continue in effect for any renewal requested, as well as any additional bond required by the cabinet pursuant to 405 KAR 10:020; and

(f) Any additional revised or updated information which may be required by the cabinet.

(3) Applications for renewal shall be subject to the requirements of Sections 8 through 11, 13 and 16 of this regulation.

(4) An application for renewal shall not include any proposed revisions to the permit.

Revisions shall be made by separate application and shall be subject to the requirements of Section 20 of this regulation.

(5) Term of renewal. Any permit renewal shall be for a term not to exceed the period of the original permit established under Section 17 of this regulation.

(6) Approval or denial of renewal applications.

(a) The cabinet shall approve a complete and accurate application for permit renewal, unless it finds, in writing, that:

1. The terms and conditions of the existing permit are not being satisfactorily met;

2. The present surface coal mining and reclamation operations are not in compliance with the environmental protection standards under KRS Chapter 350 and 405 KAR Chapters 7 through 24;

3. The requested renewal substantially jeopardizes the applicant's continuing responsibility to comply with KRS Chapter 350 and 405 KAR Chapters 7 through 24 on existing permit areas;

4. The applicant has not provided evidence that any performance bond required for the operations will continue in effect for the proposed period of renewal, as well as any additional bond the cabinet might require pursuant to 405 KAR Chapter 10;

5. Any additional revised or updated information required by the cabinet has not been provided by the applicant; or

6. The applicant has not provided evidence of having liability insurance in accordance with 405 KAR 10:030, Section 4.

(b) In determining whether to approve or deny a renewal, the burden shall be on the opponents of renewal.

(c) The cabinet shall send copies of its decision to the applicant, any persons who filed objections or comments to the renewal, to any persons who were parties to any informal conference held on the permit renewal and to the field office director of the Office of Surface Mining Reclamation and Enforcement.

(d) Any person having an interest which is or may be adversely affected by the decision of the cabinet shall have the right to administrative and judicial review set forth in Section 24 of this regulation.

Section 22. Transfer, Assignment, or Sale of Permit Rights. (1) General. No transfer, assignment, or sale of the rights granted under any permit issued pursuant to 405 KAR shall be made without the prior written approval of the cabinet, in accordance with this section.

(2) Application requirements. An applicant (successor) for approval of the transfer, assignment, or sale of permit rights shall:

(a) Provide a complete and accurate application, on forms provided by the cabinet, for the approval of the proposed transfer, assignment, or sale. The application shall be signed by both the existing holder of permit rights and the applicant for succession. Additionally, the following information shall be provided:

1. The name and address of the existing permittee and the permit number;

2. A brief description of the proposed action requiring approval;

3. The legal, financial, compliance, and related information required by 405 KAR 8:030, Sections 2 through 10 and 405 KAR 8:040, Sections 2 through 10; and

4. A processing fee of $375.

(b) Advertise the filing of the application in the newspaper of largest bona fide circulation, according to the definition in KRS 424.110 to 424.120, in the county where the operations are located, indicating the name and address of the applicant, the original permittee, the permit number, the geographic location of the permit, and the address to which written comments may be sent under subsection (3) of this section.

(c) Obtain sufficient performance bond coverage which will ensure reclamation of all lands affected by the permit, including areas previously affected by the existing permittee on the permit being transferred.

(3) Public participation. Any person whose interests are or may be adversely affected by a decision on the transfer, assignment, or sale of permit rights, including an official of any federal, state, or local government agency, may submit written comments on the application to the cabinet within fifteen (15) days of the date of publication of the advertisement.

(4) Criteria for approval. The cabinet may allow a permittee to transfer, assign, or sell permit rights to a successor if it finds, in writing, that the successor:

(a) Is eligible to receive a permit in accordance with the criteria specified in Section 14 of this regulation;

(b) Has submitted a performance bond, in accordance with 405 KAR Chapter 10, which will ensure reclamation of all lands affected by the permit, including areas previously disturbed by the existing permittee on the permit being transferred, and which is at least equivalent to the bond of the existing permittee;

(c) Has submitted proof that liability insurance, as required by 405 KAR 10:030, Section 4, has been obtained; and

(d) Meets any other requirements specified by the cabinet in order to ensure compliance with KRS Chapter 350 or 405 KAR Chapters 7 through 24.

(5) Notice of decision. The cabinet shall notify the original permittee, the successor, any commenters or objectors, and the field office director of the Office of Surface Mining Reclamation and Enforcement of its final decision.

(6) Permit reissuance. After receiving the notice described in subsection (5) of this section, the successor shall immediately provide proof to the cabinet of the consummation of the transfer, assignment, or sale of permit rights. Upon submission of this proof, the cabinet shall reissue the original permit in the name of the successor.

(7) Rights of successor. All rights and liabilities under the original permit shall pass to the successor upon reissuance of the permit, except that the original permittee shall remain liable for any civil penalties resulting from violations occurring prior to the date of reissuance of the permit. The cabinet shall not approve transfer of a surface coal mining permit to any person who would be ineligible to receive a new permit under KRS 350.130(3).

(8) Requirements for new permits for persons succeeding to rights granted under a permit. A successor in interest who is able to obtain appropriate bond coverage may continue surface coal mining and reclamation operations according to the approved mining and reclamation plan and permit of the original permittee. However, any

successor in interest seeking to change the conditions of mining or reclamation operations, or any of the terms or conditions of the original permit shall make application for a new permit, revision, or amendment, as appropriate.

(9) Release of bond liability. The cabinet may release the prior permittee from bond liability on the permit area if the successor in interest has filed a performance bond satisfactory to the cabinet, has received written approval of the cabinet for the transfer, sale or assignment of rights, has submitted proof of execution of the agreement, and has assumed all liability under 405 KAR for reclamation of the areas affected by all prior permittees.

Section 23. Amendments. Except for incidental boundary revisions, no extensions to an area covered by a permit shall be approved under Section 20 (permit revisions) or Section 21 (permit renewals) of this regulation. All such extensions shall be made by application for another permit. However, if the permittee desires to add the new area to his existing permit in order to have existing areas and new areas under one (1) permit, the cabinet may so amend the original permit provided that the application for the new area shall be subject to all procedures and requirements applicable to applications for original permits under 405 KAR.

Section 24. Administrative and Judicial Review. (1) Following the final decision of the cabinet concerning the application for a permit, revision or renewal thereof, application for transfer, sale, or assignment of rights or concerning an application for coal exploration, the applicant, permittee or any person with an interest which is or may be adversely affected may request a hearing on the reasons for the final decision in accordance with 405 KAR 7:090.

(2) Any applicant or any person with an interest which is or may be adversely affected and who has participated in the administrative proceedings as an objector shall:

(a) Have the right to judicial review as provided in KRS 224.085 if the applicant or person is aggrieved by the decision of the cabinet in an administrative hearing requested pursuant to subsection (1) of this section; or

(b) Have the right to an action in mandamus pursuant to KRS 350.250 if the cabinet fails to act within time limits specified in KRS Chapter 350 or 405 KAR Chapters 7 through 24.

Section 25. Improvidently Issued Permits. (1) Permit review. If the cabinet has reason to believe that it improvidently issued a surface coal mining and reclamation permit, the cabinet shall review the circumstances under which the permit was issued, using the criteria in subsection (2) of this section. If the cabinet finds that the permit was improvidently issued, the cabinet shall comply with subsection (3) of this section.

(2) Review criteria. The cabinet shall find that a surface coal mining and reclamation permit was improvidently issued if:

(a) Under the violation review criteria of the cabinet at the time the permit was issued:

1. The cabinet should not have issued the permit because of an unabated violation or a delinquent penalty or fee; or

2. The permit was issued on the presumption that a notice of violation was in the process of being corrected to the satisfaction of the agency with jurisdiction over the violation, but a cessation order subsequently was issued; and

(b) The violation, penalty, or fee:

1. Remains unabated or delinquent; and

2. Is not the subject of a good faith appeal, or of an abatement plan or payment schedule with which the permittee or other person responsible is complying to the satisfaction of the responsible agency; and

(c) Where the permittee was linked to the violation, penalty, or fee through ownership or control, under the violations review criteria of the regulatory program at the time the permit was issued an ownership or control link between the permittee and the person responsible for the violation, penalty, or fee still exists, or where the link was severed the permittee continues to be responsible for the violation, penalty, or fee.

(3) Remedial measures. If the cabinet, under subsection (2) of this section, finds that because of an unabated violation or a delinquent penalty or fee a permit was improvidently issued, the cabinet shall use one (1) or more of the following remedial measures:

(a) Implement, with the cooperation of the permittee or other person responsible, and of the responsible agency, a plan for abatement of the violation or a schedule for payment of the penalty or fee;

(b) Impose on the permit a condition requiring that in a reasonable period of time the permittee or other person responsible abate the violation or pay the penalty or fee;

(c) Suspend the permit until the violation is abated or the penalty or fee is paid; or

(d) Rescind the permit under subsection (4) of this section.

(4) Rescission procedures. If the cabinet, under subsection (3)(d) of this section, elects to rescind an improvidently issued permit, the cabinet shall serve on the permittee a notice of proposed suspension and rescission which includes the reasons for the finding of the cabinet under subsection (2) of this section and states that:

(a) Automatic suspension and rescission. After a specified period of time not to exceed ninety (90) days the permit automatically will become suspended, and not to exceed ninety (90) days thereafter rescinded, unless within those periods the permittee submits proof, and the cabinet finds, that:

1. The finding of the cabinet under subsection (2) of this section was erroneous;

2. The permittee or other person responsible has abated the violation on which the finding was based, or paid the penalty or fee, to the satisfaction of the responsible agency;

3. The violation, penalty, or fee is the subject of a good faith appeal, or of an abatement plan or payment schedule with which the permittee or other person responsible is complying to the satisfaction of the responsible agency; or

4. Since the finding was made, the permittee has severed any ownership or control link with the person responsible for, and does not continue to be responsible for, the violation, penalty, or fee;

(b) Cessation of operations. After permit suspension or rescission, the permittee shall cease all surface coal mining and reclamation operations under the permit, except for

violation abatement and for reclamation and other environmental protection measures as required by the cabinet; and

(c) Right to request a formal hearing. Any permittee aggrieved by the notice may request a formal hearing under 405 KAR 7:090.

[(c) Right to appeal. The permittee may file an appeal for administrative review of the notice under 405 KAR 7:090, but the procedures of 405 KAR 7:090, Section 8 shall not apply to suspend the effect of the notice.]

CARL H. BRADLEY, Secretary
FRANK DICKERSON, Commissioner
APPROVED BY AGENCY: April 12, 1991
FILED WITH LRC: April 12, 1991 at noon

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

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

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

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

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

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

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

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

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

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

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

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

(9) "MP" means milepoint.

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

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

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

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

(14) "CO" means county.

(15) "LN" means line.

(16) "Mpt." means milepoint.

(17) "PKWY" means parkway.

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

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

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

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

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

Section 4. The following highways, or portions of those highways, are certified as meeting the

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

ANDERSON COUNTY

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

BATH COUNTY

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

BELL COUNTY

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

*	KY 1344	0.0 KY 217	2.1 Wolfpen Branch RD
*	KY 2011	8.6 Beverly Tipple	9.0 KY 66
*	KY 2012	0.0 Private Haul RD	0.1 Hen Wilder RD
*	KY 2014	0.0 US 25E	2.7 Lewis Coal Mine RD
	Weight Limit - Bridge over Cumberland River @ milepoint 0.63		
	TY I = 15 tons, TY II = 15 tons, TY III = 15 tons, TY IV = 15 tons		
*	KY 2079	2.4 Ashbury Avenue	3.2 KY 441
*	Hen Wilder RD		
	CR 5001	0.0 KY 987	2.0 KY 2012
*	Cow Fork Road		
	CR 5032	0.0 KY 2011	2.6 Mine
*	Straight Creek Road		
	CR 5040	0.0 KY 66	0.6 Knox CO LN
*	Cranes Creek Road		
	CR 5260	0.0 KY 188	0.2 Mountain Drive Tipple
*	Hignite Creek Road		
	CR 5219	0.0 KY 74	2.3 Mine Access RD
	Weight Limit - Bridge over Hignite Creek		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
*	Clear Fork Road		
	CR 5227	0.0 KY 535	0.6 Mine Access RD
*	Lewis Mine Road		
	CR 5330	0.0 KY 2014 @ PONTA	0.5 Min-Dora Tipple
	Weight Limit - Bridge over Fourmile Creek		
	TY I = 20 tons, TY II = 45 tons, TY III = 51 tons, TY IV = 53 tons		
*	Little Creek Road		
	CR 5358	0.0 KY 66	0.2 Little Creek Tipple
*	Fitzpatrick Avenue (Middlesboro)		
		0.0 Ashbury Avenue	0.4 Old R B S Tipple
*	Ashbury Avenue (Middlesboro)		
		0.2 KY 2079	0.3 Fitzpatrick Avenue

BOURBON COUNTY

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

BOYD COUNTY

	ROAD	FROM	TO
*	US 23	0.0 Lawrence CO LN	21.1 Greenup CO LN
	Weight Limit - Bridge over I-64 @ milepoint 10.56		
	TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 60 tons		
	Weight Limit - Bridge over C & O R.R. @ milepoint 19.31		
	TY I = 20 tons, TY II = 30 tons, TY III = 31 tons, TY IV = 39 tons		
	Weight Limit - Bridge over C & O R.R. & Armco Rd. @ milepoint 19.34		
	TY I = 20 tons, TY II = 44 tons, TY III = 45 tons, TY IV = 52 tons		
*	US 23S	0.0 US 60	0.5 Ohio State LN
	Weight Limit - Northbound Bridge over Ohio River @ milepoint 0.03		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
	Weight Limit - Southbound Bridge over Ohio River @ milepoint 0.05		
	TY I = 20 tons, TY II = 28 tons, TY III = 33 tons, TY IV = 36 tons		
*	US 23X	1.4 US 60	2.0 US 23
*	US 60	0.0 Carter CO LN	12.4 US 23
	Weight Limit - Bridge over C & O R.R. at Princess @ milepoint 2.69		
	TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 60 tons		
*	US 60Z	0.0 US 23	0.2 US 60

*	KY 5	0.0 US 60	1.5	Straight Creek RD
	Weight Limit - Bridge over Williams Creek @ milepoint 0.92			
	TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons			
*	KY 757	6.2 US 23	10.2	US 23
*	Straight Creek Road			
	CR 5288	0.0 KY 5	0.6	Buena Vista RD
	Weight Limit - Bridge over Straight Creek			
	TY I = 14 tons, TY II = 14 tons, TY III = 14 tons, TY IV = 14 tons			
*	County Line Tipple Road			
	CR 5300	0.0 US 23	0.3	County Line Tipple
*	Buena Vista Road			
	CR 5493	0.0 Straight Creek RD	0.7	Mine Access RD
*	15th Street (Ashland)			
		0.0 US 23	0.2	Mansbach Dock
*	53rd Street (Ashland)			
		0.0 US 23	0.1	53rd ST Dock

BOYLE COUNTY

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

BRACKEN COUNTY

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

BREATHITT COUNTY

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

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

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

BULLITT COUNTY

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

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

BUTLER COUNTY

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

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

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

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

*	KY 70	0.0 Muhlenberg CO LN	14.4	US 231

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

		14.4 US 231	25.3	KY 411

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

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

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

CALDWELL COUNTY

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

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

CALLOWAY COUNTY

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

[Weight Limit - Bridge over Clark's River @ milepoint 1.10]
[TY I = 20 tons, TY II = 30 tons, TY III = 31 tons, TY IV = 44 tons]

Weight Limit - Bridge over Bee Creek @ milepoint 8.92
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
Weight Limit - Bridge over Rockhouse Creek @ milepoint 15.65
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons

CARTER COUNTY

	ROAD	FROM	TO
*	US 60	24.1 KY 1 and KY 7	24.8 KY 1
		29.7 Fighting Fork RD	35.0 Boyd CO LN
*	KY 1	0.0 Lawrence CO LN	10.6 US 60

Weight Limit - Bridge over Dry Fork Creek @ milepoint 0.46
TY I = 20 tons, TY II = 42 tons, TY III = 43 tons, TY IV = 60 tons
Weight Limit - Bridge over Dry Fork Creek @ milepoint 0.83
TY I = 20 tons, TY II = 42 tons, TY III = 43 tons, TY IV = 60 tons
Weight Limit - Bridge over Dry Fork Creek @ milepoint 1.12
TY I = 20 tons, TY II = 41 tons, TY III = 43 tons, TY IV = 60 tons
Weight Limit - Bridge over Little Fork Little Sandy River @ milepoint 2.40
TY I = 20 tons, TY II = 43 tons, TY III = 44 tons, TY IV = 59 tons
Weight Limit - Bridge over Little Fork Little Sandy River @ milepoint 4.13
TY I = 20 tons, TY II = 41 tons, TY III = 43 tons, TY IV = 60 tons
Weight Limit - Bridge over Little Fork Little Sandy River @ milepoint 4.75
TY I = 20 tons, TY II = 41 tons, TY III = 43 tons, TY IV = 60 tons
Weight Limit - Bridge over Little Fork Little Sandy River @ milepoint 5.41
TY I = 20 tons, TY II = 42 tons, TY III = 43 tons, TY IV = 60 tons
Weight Limit - Bridge over Little Fork Little Sandy River @ milepoint 5.77
TY I = 20 tons, TY II = 33 tons, TY III = 34 tons, TY IV = 45 tons
Weight Limit - Bridge over Little Fork Little Sandy River @ milepoint 7.70
TY I = 20 tons, TY II = 40 tons, TY III = 41 tons, TY IV = 55 tons

		10.6 US 60	11.5 I-64

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

*	KY 7	0.0 Elliott CO LN	10.9 KY 1

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

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

CHRISTIAN COUNTY

	ROAD	FROM	TO
*	Pennyrile PKWY	2.4 US 68	21.1 KY Hopkins CO LN
*	US 41	28.5 KY 1296	31.6 Hopkins CO LN

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

*	KY 1296	2.7 Campbell Cemetery RD	5.2 US 41
*	Campbell Cemetery Road		
	CR 5418	0.0 KY 1296	2.0 Mine

CLARK COUNTY

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

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

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

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

*	KY 89	15.9 US 60	16.0 KY 627

*	KY 418	5.7 KY 1924		5.8 KY 627
*	KY 627	0.0 Madison CO LN		6.4 KY 1958
	Weight Limit - Bridge over Kentucky River @ Boonesboro @ milepoint 0.01			
	TY I = 20 tons, TY II = 36 tons, TY III = 37 tons, TY IV = 47 tons			
		7.8 US 60		8.1 KY 89
		9.3 I-64		14.8 Bourbon CO LN
	Weight Limit - Bridge over Woodruff Creek @ milepoint 13.20			
	TY I = 20 tons, TY II = 28 tons, TY III = 31 tons, TY IV = 40 tons			
*	KY 1924	0.0 Dale Power Plant		1.8 KY 418
*	KY 1958	0.0 KY 627		2.8 I-64

CLAY COUNTY

	ROAD	FROM		TO
*	Daniel Boone Parkway			
		10.6 Laurel CO LN		35.9 Leslie CO LN
	Weight Limit - Bridge over Little Goose Creek Rd. @ milepoint 10.81			
	TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 60 tons			
	Weight Limit - Bridge over Urban Road @ milepoint 13.90			
	TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 60 tons			
	Weight Limit - Bridge over Hooker Road @ milepoint 16.14			
	TY I = 20 tons, TY II = 41 tons, TY III = 43 tons, TY IV = 60 tons			
	Weight Limit - Bridge over Ham Branch Rd. & Goose Creek @ milepoint 21.67			
	TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 57 tons			
	Weight Limit - Bridge over Red Bird River @ milepoint 33.58			
	TY I = 20 tons, TY II = 42 tons, TY III = 42 tons, TY IV = 56 tons			
*	US 421	0.0 Leslie CO LN		32.8 Jackson CO LN
	Weight Limit - Bridge over Horse Creek @ milepoint 16.58			
	TY I = 20 tons, TY II = 36 tons, TY III = 38 tons, TY IV = 60 tons			
	Weight Limit - Bridge over Little Goose Creek @ milepoint 18.59			
	TY I = 20 tons, TY II = 35 tons, TY III = 36 tons, TY IV = 48 tons			
	Weight Limit - Bridge over Island Creek @ milepoint 20.49			
	TY I = 20 tons, TY II = 28 tons, TY III = 31 tons, TY IV = 43 tons			
	Weight Limit - Bridge over Branch of Island Creek @ milepoint 21.20			
	TY I = 20 tons, TY II = 28 tons, TY III = 32 tons, TY IV = 53 tons			
	Weight Limit - Bridge over Laurel Creek @ milepoint 23.97			
	TY I = 20 tons, TY II = 28 tons, TY III = 31 tons, TY IV = 43 tons			
	Weight Limit - Bridge over Sexton Creek @ milepoint 28.41			
	TY I = 20 tons, TY II = 28 tons, TY III = 32 tons, TY IV = 52 tons			
*	KY 11	0.0 Knox CO LN		8.9 US 421 (South)
	Weight Limit - Bridge over Collins Fork - Goose Creek @ milepoint 2.91			
	TY I = 20 tons, TY II = 41 tons, TY III = 43 tons, TY IV = 60 tons			
	Weight Limit - Bridge over Collins Fork - Goose Creek @ milepoint 5.38			
	TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 60 tons			
		8.9 US 421 (North)		26.6 Owsley CO LN
	Weight Limit - Bridge over Wildcat Creek @ milepoint 15.57			
	TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 60 tons			
*	KY 66	0.0 Bell CO LN		1.8 Beverly Tipple
*	KY 80	4.8 New Truckers Tipple		7.5 US 421
*	KY 1524	0.0 US 421		1.1 KY 2000
*	KY 2000	0.0 KY 1524		4.6 Sand Hill RD
*	KY 2432	0.0 Sester Road		1.4 Panama SCH RD
*	KY 2438	0.0 US 421		0.1 KY 2432
	Weight Limit - Bridge over Goose Creek & L & N RR @ milepoint 0.01			
	TY I = 20 tons, TY II = 41 tons, TY III = 42 tons, TY IV = 50 tons			
*	Sand Hill Road			
	CR 5129	0.0 KY 2000		0.2 Mine
*	Sevier Road			
	CR 5180	0.0 US 421		0.2 Tipple Access RD
	Weight Limit - Bridge over Goose Creek			
	TY I = 20 tons, TY II = 32 tons, TY III = 33 tons, TY IV = 60 tons			
*	Sester Road (Manchester)			
	CR 5227AA	0.0 KY 2432		0.2 Tipple Access
*	Panama School Road			
	CR 5341	0.0 Littleton Road		0.8 Steele RD
*	Steele Road			
	CR 5342	0.0 Panama School RD		0.9 Mine Access

CLINTON COUNTY

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

DAVIESS COUNTY

	ROAD	FROM	TO
*	Green River Parkway		
		59.5 Ohio CO LN	70.7 US 60 Bypass
	Weight Limit - Bridge over Owensboro Beltline @ milepoint 70.18		
	TY I = 20 tons, TY II = 45 tons, TY III = 47 tons, TY IV = 55 tons		
*	US 60	10.2 US 60 Bypass	28.0 Hancock CO LN
	Weight Limit - Bridge over L & N Railroad @ milepoint 11.78		
	TY I = 20 tons, TY II = 34 tons, TY III = 35 tons, TY IV = 44 tons		
	Weight Limit - Westbound Bridge over L & N RR @ milepoint 16.66		
	TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 60 tons		
	Weight Limit - Eastbound Bridge over Power Plant Entrance @ milepoint 16.66		
	TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 53 tons		
	Weight Limit - Bridge over Pup Creek @ milepoint 20.31		
	TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 45 tons		
*	US 60B	0.0 US 60	10.2 US 60
	Weight Limit - Bridge over US 431 @ milepoint 4.22		
	TY I = 20 tons, TY II = 42 tons, TY III = 42 tons, TY IV = 48 tons		
	Weight Limit - Bridge over L & N Railroad @ milepoint 4.84		
	TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 49 tons		
	Weight Limit - Bridge over Sutherland Road @ milepoint 5.08		
	TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Horse Fork Creek @ milepoint 5.65		
	TY I = 20 tons, TY II = 35 tons, TY III = 37 tons, TY IV = 60 tons		
	Weight Limit - Bridge over I C RR @ milepoint 7.71		
	TY I = 20 tons, TY II = 37 tons, TY III = 37 tons, TY IV = 48 tons		
	Weight Limit - Bridge over L&N RR & KY 2710 @ milepoint 9.77		
	TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 43 tons		
*	US 231	0.0 Ohio CO LN	11.3 US 60 Bypass
	Weight Limit - Bridge over Panther Creek @ milepoint 3.91		
	TY I = 20 tons, TY II = 41 tons, TY III = 43 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Panther Creek @ milepoint 8.84		
	TY I = 20 tons, TY II = 44 tons, TY III = 45 tons, TY IV = 60 tons		
	Weight Limit - Bridge over overflow @ milepoint 8.94		
	TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 60 tons		
	Weight Limit - Bridge over overflow @ milepoint 9.22		
	TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Owensboro Beltline @ milepoint 11.29		
	TY I = 20 tons, TY II = 39 tons, TY III = 39 tons, TY IV = 60 tons		
*	KY 81	0.0 McLean CO LN	11.9 US 60 Bypass
	Weight Limit - Bridge over Panther Creek @ milepoint 6.50		
	TY I = 20 tons, TY II = 27 tons, TY III = 28 tons, TY IV = 43 tons		
*	KY 144	0.0 US 60	11.9 Flora RD
	Weight Limit - Bridge over L & N RR @ milepoint 0.16		
	TY I = 20 tons, TY II = 43 tons, TY III = 46 tons, TY IV = 50 tons		
*	KY 331	0.0 US 60 (East) (Via Industrial Dr. & Medley-Roost Rd.)	1.9 Mine
*	KY 554	1.9 Mine	4.8 KY 81
*	KY 951	0.0 KY 144	2.9 Mine
*	Floral Road		
	CR 5035	0.0 KY 144	1.4 Mine
*	St Lawrence Road		
	CR 5036	1.6 Mine	1.8 Indian Hill Rd
*	Indian Hill Road		
	CR 5038	0.0 KY 951	0.5 St. Lawrence RD
*	Iceland Road		

ELLIOTT COUNTY

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

FAYETTE COUNTY

	ROAD	FROM	TO
*	US 60	0.0 Woodford CO LN	4.7 KY 4 (West)
	Weight Limit - Bridge over South Elkhorn Creek @ milepoint 1.30		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
		10.2 KY 4 (East)	19.3 Clark CO LN
	Weight Limit - Bridge over New Circle Road (KY 4) @ milepoint 10.19		
	TY I = 20 tons, TY II = 43 tons, TY III = 44 tons, TY IV = 58 tons		
*	US 68	0.0 Jessamine CO LN	3.1 KY 4
	Weight Limit - Bridge over South Elkhorn Creek @ milepoint 0.74		
	TY I = 20 tons, TY II = 41 tons, TY III = 43 tons, TY IV = 60 tons		

*	KY 4	2.2	US 68 (South)	12.7	US 60 (East)
	Weight Limit - Bridge over US 60, Versailles Road @ milepoint 4.61				
	TY I = 20 tons, TY II = 43 tons, TY III = 44 tons, TY IV = 58 tons				
	Weight Limit - Bridge over Viley Pike @ milepoint 5.48				
	TY I = 20 tons, TY II = 43 tons, TY III = 45 tons, TY IV = 60 tons				
	Weight Limit - Bridge over Southern RR @ milepoint 8.03				
	TY I = 20 tons, TY II = 39 tons, TY III = 40 tons, TY IV = 51 tons				
*	KY 922	1.0	KY 4	2.9	I-75

FLEMING COUNTY

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

FLOYD COUNTY

	ROAD	FROM		TO	
*	US 23	0.0	Pike CO LN	15.7	KY 114
	Weight Limit - Bridge over Levisa Fork Big Sandy River @ milepoint 10.76				
	TY I = 20 tons, TY II = 45 tons, TY III = 49 tons, TY IV = 56 tons				
	Weight Limit - Bridge over C&O RR @ milepoint 10.95				
	TY I = 20 tons, TY II = 45 tons, TY III = 48 tons, TY IV = 57 tons				
*	US 23	16.8	KY 1428	24.1	Johnson CO LN
*	KY 3	0.0	US 23 & KY 80	2.3	Blackhawk Tipple
*	KY 7	0.0	Knott CO LN	6.5	KY 80
*	KY 80	0.0	Knott CO LN	14.4	US 23 & KY 3
*	KY 114	0.0	Magoffin CO LN	11.4	US 23
	Weight Limit - Bridge over Middle Creek @ milepoint 4.12				
	TY I = 20 tons, TY II = 44 tons, TY III = 46 tons, TY IV = 60 tons				
	Weight Limit - Bridge over C&O RR @ milepoint 10.41				
	TY I = 20 tons, TY II = 44 tons, TY III = 46 tons, TY IV = 56 tons				
	Weight Limit - Bridge over Middle Creek @ milepoint 10.60				
	TY I = 20 tons, TY II = 43 tons, TY III = 44 tons, TY IV = 55 tons				
*	KY 122	8.5	KY 80	21.1	Spewing Camp Branch RD
		24.3	Mine	31.6	KY 466
*	KY 194	9.0	Addington Mine	12.2	Pike CO LN
	Weight Limit - Bridge over Brushy Creek @ milepoint 12.15				
	TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 60 tons				
*	KY 404	0.0	Magoffin CO LN	3.1	KY 850
		4.2	KY 1210	8.1	KY 114
	Weight Limit - Bridge over Middle Creek @ milepoint 8.07				
	TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 60 tons				
*	KY 466	2.3	Caleb FK RD	4.1	KY 122
	Weight Limit - Bridge over Left Fork of Beaver Creek @ milepoint 2.58				
	TY I = 16 tons, TY II = 18 tons, TY III = 21 tons, TY IV = 37 tons				
	Weight Limit - Bridge over Left Fork of Beaver Creek @ milepoint 2.90				
	TY I = 15 tons, TY II = 15 tons, TY III = 15 tons, TY IV = 15 tons				
*	KY 550	0.0	Knott CO LN	0.2	KY 7
	Weight Limit - Bridge over Right Fork of Beaver Creek @ milepoint 0.06				
	TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 48 tons				
*	KY 680	0.0	KY 122	0.9	KY 1929
		1.6	Joseph Mining Tipple	5.4	KY 979
*	KY 777	6.5	Mine	9.1	KY 80
*	KY 850	3.0	Mine	7.5	KY 404
*	KY 979	0.0	KY 122	19.3	US 23
	Weight Limit - Bridge over Toler Creek @ milepoint 17.43				
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons				
*	KY 1091	0.0	Knott CO LN	1.2	KY 122
	Weight Limit - Bridge over Left Fork of Beaver Creek @ milepoint 1.20				
	TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons				
*	KY 1101	0.0	KY 122	0.1	Stonecoal Branch RD
	Weight Limit - Bridge over Left Fork of Beaver Creek @ milepoint 0.90				
	TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 59 tons				
*	KY 1210	0.0	KY 80	0.6	Mines
		7.1	Nerco-Hiller Tipple	7.8	KY 404
	Weight Limit - Bridge over Middle Creek @ milepoint 7.76				
	TY I = 20 tons, TY II = 34 tons, TY III = 36 tons, TY IV = 59 tons				

*	KY 1426	0.0 Pike CO LN	6.6	KY 979
		6.6 KY 979	9.5	Justice BR RD
		10.9 Mine	14.3	US 23
	Weight Limit - Bridge over Levisa Fork of Big Sandy River @ milepoint 14.09			
	TY I = 20 tons, TY II = 49 tons, TY III = 49 tons, TY IV = 55 tons			
*	KY 1428	6.2 US 23	8.8	KY 194
		14.1 Uptown Mining Mine	15.6	US 23
	Weight Limit - Bridge over Little Paint Creek @ milepoint 14.85			
	TY I = 20 tons, TY II = 34 tons, TY III = 35 tons, TY IV = 44 tons			
*	KY 1498	0.0 Knott CO LN	4.6	KY 122
	Weight Limit - Bridge over Left Fork of Beaver Creek @ milepoint 4.59			
	TY I - 20 tons, TY II = 39 tons, TY III - 38 tons, TY IV = 60 tons			
*	KY 1928	2.0 Ned FK RD	4.5	KY 680
*	KY 2030	0.0 KY 122	7.8	KY 1426
	Weight Limit - Bridge over Left Fork of Beaver Creek @ milepoint 0.10			
	TY I = 20 tons, TY II = 42 tons, TY III = 43 tons, TY IV = 56 tons			
*	KY 2557	0.0 Betsy Layne BR RD	0.3	US 23
*	KY 3188	0.8 Kanawha Mine	1.3	KY 80
*	KY 3379	0.0 Left Fork/Tinker Fork RD	7.0	KY 979
*	KY 3380	0.0 KY 979	0.6	Andy Branch RD
*	Powell Branch Road			
	CR 5022	0.0 Justell Bridge RD	0.3	Camp BR Branch RD
*	Justell Bridge Road			
	CR 5024F	0.0 US 23	0.1	Powell Branch RD
*	Ivy Creek RD			
	CR 5032	0.0 US 23	2.1	Mine
*	Bushy Fork Road			
	CR 5046	0.0 KY 194	0.8	Pike CO LN
*	Wolf Branch Road			
	CR 5046A	0.0 Bushy Fork Road	1.0	Martin CO LN
*	Bull Creek Road			
	CR 5055	0.0 KY 3	0.5	Cabin Coal Tipple
*	Camp Branch Road			
	CR 5078	0.0 Powell Branch RD	0.9	Right FK/Camp BR RD
*	Right Fork/Camp Branch Road			
	CR 5078A	0.0 Camp Branch RD	0.2	Prater Creek Mine
*	Transcontinental Road (Excluding Bridge)			
	CR 5083	0.0 Transcontinental Tip	0.8	US 23
*	Justice Branch Road			
	CR 5107	0.0 KY 1426	0.4	Right Fork Justice BR RD
*	Right Fork of Justice Branch RD			
	CR 5107A	0.0 Justice Branch RD	0.3	Island Creek Mine
*	Frog Branch Road			
	CR 5110	0.0 KY 2030	1.0	Maple Ridge Mine
*	Betsy Layne Branch Road			
	CR 5111	0.0 KY 2557	0.9	Somerset Coal Mine
*	Cedar Hill Road			
	CR 5118	0.0 KY 1426	0.2	Mine
*	Hamilton Branch RD			
	CR 5127	0.0 KY 1426	0.2	Bebe Mine
	Weight Limit - Bridge over Toler Creek			
	TY I = 20 tons, TY II = 20 tons, TY III = 23 tons, TY IV = 35 tons			
*	Parsons Branch Road			
	CR 5128	0.0 KY 979	0.2	Transcontinental Mine
	Weight Limit - Bridge over Mud Creek			
	TY I = 20 tons, TY II = 36 tons, TY III = 36 tons, TY IV = 36 tons			
*	Frasure Branch Road			
	CR 5134	0.0 KY 979	1.0	Joseph Mining Mine
*	Mink Branch Road			
	CR 5138	0.0 KY 979	1.2	Mine
	Weight Limit - Bridge over Big Mud Creek			
	TY I = 22 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons			
*	Dry Branch/Mud Creek Road			
	CR 5139	0.0 KY 979	1.1	Joseph Mining Mine
*	Ned Fork Road			
	CR 5140	0.0 KY 1929	1.1	Premium Elkhorn Shannon Mine
*	Branham Creek Road			
	CR 5142	0.0 KY 3379	0.6	Pike CO LN
*	Barn Branch Road			
	CR 5146	0.0 Branham Creek RD	0.3	Phyllis Coal Mine

* Left Fork/Tinker Fork Road			
CR 5147	0.0 Branham Creek RD	0.2	Wellmore Kodiak Mine
* Andy Branch Road			
CR 5148	0.0 Tinker Fork RD	0.5	Ensol Mine
* Red Morg Branch Road			
CR 5153	0.0 KY 979	0.9	Turner Elkhorn Mine
* Buzzard Rock Road			
CR 5157	0.2 Apache Mining Mine	0.5	Pike CO LN
* Caleb Fork RD			
CR 5175	0.0 KY 466	0.7	Pike County Haul RD
* Spewing Camp Branch			
CR 5190	0.0 KY 122	1.8	Mine
Weight Limit - Bridge over Left Fork of Beaver Creek			
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons			
* Little Muddy Creek Road			
CR 5197	0.0 KY 2030	3.0	Bebe Mine
* Upper Wolfpen Branch Road			
CR 5197B	0.0 Little Muddy Creek RD	0.7	Prater Creek Mine
* Hite Road			
CR 5220	1.8 Hite RD-KY 122	1.9	Hite Prep Plant Connector RD
* Hite Road-KY 122 Connector Road			
CR 5220A	0.0 KY 122	0.1	Hite RD
* Stonecoal Branch Road			
CR 5234	0.0 KY 1101	1.6	Mine
* Goose Creek Road			
CR 5273	0.0 Gosling Branch RD	0.6	Transcontinental T&H Mine
* Gosling Branch Road			
CR 5274	0.0 KY 80	0.1	Goose Creek RD
* Vine Street (Eastern)			
CR 5283C	0.0 KY 80	0.1	May I Tipple
Weight Limit - Bridge over Right Fork of Beaver Creek			
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons			
* Johnson Fork-Conley Fork Road			
CR 5409	0.0 KY 1210	0.2	Amber Prep Plant

FRANKLIN COUNTY

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

GREENUP COUNTY

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

HANCOCK COUNTY

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

HARLAN COUNTY

ROAD	FROM	TO	
* US 119	0.0 Bell CO LN	39.7	Letcher CO LN
Weight Limit - Bridge over Poore Fork Cumberland River @ milepoint 31.12			
TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 53 tons			

	Weight Limit - Bridge over Poore Fork Cumberland River @ milepoint 33.32			
	TY I = 20 tons, TY II = 47 tons, TY III = 47 tons, TY IV = 55 tons			
	Weight Limit - Bridge over Clover Lick Creek @ milepoint 33.74			
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons			
	Weight Limit - Bridge over Poor Fork @ milepoint 35.56			
	TY I = 20 tons, TY II = 45 tons, TY III = 47 tons, TY IV = 60 tons			
	Weight Limit - Bridge over Poor Fork @ milepoint 38.91			
	TY I = 20 tons, TY II = 25 tons, TY III = 27 tons, TY IV = 35 tons			
	Weight Limit - Bridge over Poor Fork @ milepoint 39.61			
	TY I = 20 tons, TY II = 30 tons, TY III = 31 tons, TY IV = 44 tons			
*	US 421	0.0 Virginia State LN	17.6	US 119 (West)
	Weight Limit - Bridge over Cranks Creek @ milepoint 2.70			
	TY I = 20 tons, TY II = 29 tons, TY III = 30 tons, TY IV = 42 tons			
	Weight Limit - Bridge over Fork of Crummies Creek @ milepoint 7.36			
	TY I = 20 tons, TY II = 31 tons, TY III = 32 tons, TY IV = 40 tons			
	Weight Limit - Bridge over KY 840, L&N RR, Clover Fork @ milepoint 17.51			
	TY I = 20 tons, TY II = 42 tons, TY III = 43 tons, TY IV = 49 tons			
		17.6 US 119 (East)	27.4	Leslie CO LN
*	KY 38	0.0 US 421	13.3	Shields SCH RD
	Weight Limit - Bridge over Clover Fork Cumberland River @ milepoint 8.21			
	TY I = 20 tons, TY II = 44 tons, TY III = 45 tons, TY IV = 53 tons			
	Weight Limit - Bridge over Yocum Creek @ milepoint 8.60			
	TY I = 20 tons, TY II = 26 tons, TY III = 27 tons, TY IV = 38 tons			
	Weight Limit - Bridge over Clover Fork @ milepoint 12.90			
	TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 60 tons			
		16.7 Conveyor Dump Point	17.0	KY 179
*	KY 72	0.0 Bell CO LN	1.3	Mill Branch RD
		1.9 KY 2005	4.9	Rockhouse BR RD
	Weight Limit - Bridge over Puckett Creek @ milepoint 4.73			
	TY I = 20 tons, TY II = 26 tons, TY III = 27 tons, TY IV = 40 tons			
	Weight Limit - Bridge over Puckett Creek @ milepoint 4.84			
	TY I = 20 tons, TY II = 35 tons, TY III = 37 tons, TY IV = 60 tons			
		10.2 Mine	11.3	US 421
	Weight Limit - Bridge over Clover Fork Cumberland River @ milepoint 11.19			
	TY = 20 tons, TY II = 28 tons, TY III = 31 tons, TY IV = 31 tons			
*	KY 215	0.0 KY 38	0.2	Yocum Tipple
	Weight Limit - Bridge over Yocum Creek @ milepoint 1.06			
	TY I = 20 tons, TY II = 29 tons, TY III = 30 tons, TY IV = 49 tons			
*	KY 221	0.0 Bell CO LN	8.9	US 421 (South)
		8.9 US 421 (North)	21.6	KY 2008
*	KY 987	10.4 Wilder Branch RD	18.5	US 421
	Weight Limit - Bridge over Martins Fork Lake @ milepoint 12.72			
	TY I = 20 tons, TY II = 44 tons, TY III = 45 tons, TY IV = 55 tons			
	Weight Limit - Bridge over Martins Fork @ milepoint 15.07			
	TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 60 tons			
	Weight Limit - Bridge over Crummies Creek @ milepoint 18.52			
	TY I = 20 tons, TY II = 29 tons, TY III = 34 tons, TY IV = 41 tons			
*	KY 990	0.0 US 421	1.3	Coalgood Tipple
*	KY 1137	0.0 US 421	3.2	Mine Access RD
*	KY 2005	2.6 Lick Branch Culvert	5.1	KY 72
	Weight Limit - Bridge over Yocum Creek @ milepoint 5.08			
	TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons			
*	KY 2006	0.7 Mine	4.6	Arch of KY Tipple
*	KY 2008	0.0 Leslie CO LN	1.4	KY 221
*	KY 2009	0.0 KY 221	2.7	Leslie CO LN
	Weight Limit - Bridge over Fork of Laurel Fork Creek @ milepoint 1.51			
	TY I = 20 tons, TY II = 34 tons, TY III = 36 tons, TY IV = 59 tons			
	Weight Limit - Bridge over Laurel Fork Creek @ milepoint 2.72			
	TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 58 tons			
*	KY 3449	0.0 Forester's Creek RD	1.1	Kentucky Harlan Tipple
*	KY 3451	1.4 Mine	2.2	US 119
*	KY 3457	0.0 KY 38	0.5	Mine
*	KY 3462	0.0 US 421	0.8	Mine
*	KY 3465	0.0 KY 221	3.9	Leslie CO LN
*	Totz Road			
	CR 5007B	0.0 Haul RD	0.1	Totz Washer
*	Slack Cemetery Road			
	CR 5140	0.0 US 421 (North)	0.4	Tipple
*	Barn Branch Road			
	CR 5142	0.0 US 421	0.4	Mine Access RD

* Grays Branch Road
CR 5206K 0.0 US 421 @ Grays Knob 0.4 Tipple
Weight Limit - Bridge over Martins Fork
TY I = 20 tons, TY II = 20 tons, TY III = 20 tons, TY IV = 20 tons
* Foresters Creek Road
CR 5238 0.0 KY 3449 1.7 Mine Access RD
* Rockhouse Branch Road
CR 5256 0.0 KY 72 0.2 R B Tipple
* Gabes Branch Road
CR 5326E 0.0 KY 38 0.1 Brookside Tipple
* Ages Creek Road
CR 5326M 0.0 KY 38 0.3 Mine
Weight Limit - Bridge over Ages Branch
TY I = 20 tons, TY II = 27 tons, TY III = 33 tons, TY IV = 53 tons
* Big Run Hollow Road
CR 5344 2.1 Mine Access Road 2.6 Bell CO LN

HARRISON COUNTY

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

Weight Limit - Bridge over South Fork Licking River @ milepoint 5.65
TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 57 tons
Weight Limit - Bridge over L&N RR @ milepoint 6.28
TY I = 20 tons, TY II = 35 tons, TY III = 36 tons, TY IV = 45 tons
Weight Limit - Bridge over Indian Creek @ milepoint 7.09
TY I = 20 tons, TY II = 43 tons, TY III = 45 tons, TY IV = 58 tons
Weight Limit - Bridge over Sycamore Creek @ milepoint 9.09
TY I = 20 tons, TY II = 45 tons, TY III = 47 tons, TY IV = 60 tons
Weight Limit - Bridge over Two Lick Creek @ milepoint 10.40
TY I = 20 tons, TY II = 40 tons, TY III = 39 tons, TY IV = 57 tons
Weight Limit - Bridge over Curry Creek @ milepoint 13.27
TY I = 20 tons, TY II = 31 tons, TY III = 35 tons, TY IV = 50 tons
Weight Limit - Bridge over Richland Creek @ milepoint 19.18
TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 60 tons

HENDERSON COUNTY

	ROAD	FROM	TO
*	Pennyrile PKWY	61.4 KY 416	69.3 KY 425

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

*	US 41	0.0 Webster CO LN	13.0 KY 812

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

*	KY 416	7.8 Pennyrile Parkway	8.0 KY 2096

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

*	KY 425	4.7 US 41	5.5 Pennyrile PKWY

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

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

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

*	KY 2097	0.0 US 41	0.9 Bill Givens RD

* Bill Givens Road
CR 5142 0.0 Webster CO LN 0.1 KY 2097

HOPKINS COUNTY

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

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

* Pennyrile Parkway (Nontoll Segment) and US 41
22.6 US 41 (South) 38.2 Begin Toll Segment @ US 41(N)
Weight Limit - Bridge on exit ramp to U.S. 41 @ milepoint 45.2
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
* Pennyrile Parkway (Toll Segment)
38.2 End Nontoll Segment @ US 41 (North) 48.0 Webster CO LN
Weight Limit - Bridge over KY 138 @ milepoint 54.07
TY I = 20 tons, TY II = 40 tons, TY III = 41 tons, TY IV = 56 tons
* US 41 0.0 Christian CO LN 2.3 Pennyrile Parkway (South)
Weight Limit - Bridge over Drakes Creek @ milepoint 0.49
TY I = 20 tons, TY II = 31 tons, TY III = 36 tons, TY IV = 53 tons
US 41 & Pennyrile Parkway (Nontoll Segment) included with Pennyrile Parkway Listing
2.3 Pennyrile Parkway (North) 11.8 Webster CO LN
Weight Limit - Bridge over Otter Creek @ milepoint 6.13
TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons
* US 41A 0.0 US 41 29.4 Webster CO LN
Weight Limit - Bridge over Crab Orchard Creek @ milepoint 0.82
TY I = 20 tons, TY II = 35 tons, TY III = 36 tons, TY IV = 56 tons
Weight Limit - Bridge over IC RR & Pleasant Run Creek @ milepoint 3.42
TY I = 20 tons, TY II = 35 tons, TY III = 36 tons, TY IV = 48 tons
Weight Limit - Bridge over L&N RR @ milepoint 6.59
TY I = 20 tons, TY II = 28 tons, TY III = 28 tons, TY IV = 34 tons
Weight Limit - Bridge over Pond Creek @ milepoint 22.86
TY I = 20 tons, TY II = 23 tons, TY III = 27 tons, TY IV = 43 tons
* US 62 1.7 KY 109 21.3 Sextet Mine & Tipple
Weight Limit - Bridge over Copperas Creek @ milepoint 5.70
TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 60 tons
Weight Limit - Bridge over Cane Run Creek @ milepoint 7.94
TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 60 tons
Weight Limit - Bridge over Pleasant Run @ milepoint 12.51
TY I = 20 tons, TY II = 40 tons, TY III = 40 tons, TY IV = 60 tons
Weight Limit - Bridge over L&N RR, Fork Pleasant Run @ milepoint 14.89
TY I = 20 tons, TY II = 38 tons, TY III = 39 tons, TY IV = 58 tons
Weight Limit - Bridge over US 41 @ milepoint 15.64
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
Weight Limit - Bridge over Pleasant Run Creek @ milepoint 16.39
TY I = 20 tons, TY II = 40 tons, TY III = 40 tons, TY IV = 60 tons
Weight Limit - Bridge over Drakes Creek @ milepoint 16.72
TY I = 20 tons, TY II = 40 tons, TY III = 39 tons, TY IV = 54 tons
* KY 70 4.5 Peter Howton Road 18.7 US 41A
Weight Limit - Bridge over Richland Creek @ milepoint 11.77
TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons
Weight Limit - Bridge over ICG RR NE of Richland @ milepoint 13.09
TY I = 20 tons, TY II = 27 tons, TY III = 27 tons, TY IV = 34 tons
Weight Limit - Bridge over Sugar Creek @ milepoint 13.45
TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons
Weight Limit - Bridge over L&N RR @ milepoint 18.53
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
18.7 US 41A 26.4 Muhlenberg CO LN
Weight Limit - Bridge over Pond River @ milepoint 26.32
TY I = 20 tons, TY II = 44 tons, TY III = 45 tons, TY IV = 60 tons
* KY 109 2.1 US 62 17.2 KY 814
Weight Limit - Bridge over Western Kentucky Parkway @ milepoint 3.81
TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 54 tons
Weight Limit - Bridge over IC RR @ milepoint 4.50
TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 58 tons
Weight Limit - Bridge over IC RR @ milepoint 6.49
TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 58 tons
Weight Limit - Bridge over Lick Creek @ milepoint 7.24
TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons
* KY 112 3.5 Mine Access RD 9.8 US 41A
Weight Limit - Bridge over Finley Ditch @ milepoint 5.85
TY I = 20 tons, TY II = 26 tons, TY III = 27 tons, TY IV = 46 tons
Weight Limit - Bridge over Unnamed Stream @ milepoint 8.06
TY I = 20 tons, TY II = 26 tons, TY III = 27 tons, TY IV = 46 tons
Weight Limit - Bridge over Unnamed Stream @ milepoint 8.26
TY I = 20 tons, TY II = 26 tons, TY III = 27 tons, TY IV = 46 tons
* KY 262 0.0 KY 630 2.6 Bean Cemetery RD
Weight Limit - Bridge over Pogue Creek @ milepoint 0.92
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons

*	KY 281	0.0	US 41A	0.7 Pennyrile Parkway
	Weight Limit - Bridge over L&N RR @ milepoint 0.25			
	TY I = 20 tons, TY II = 43 tons, TY III = 44 tons, TY IV = 56 tons			
*	KY 336	3.2	McLeod RD	5.8 US 41A
*	KY 454	0.0	US 62	2.3 KY 112
	Weight Limit - Bridge over Western KY PKWY @ milepoint 1.02			
	TY I = 20 tons, TY II = 36 tons, TY III = 37 tons, TY IV = 49 tons			
*	KY 630	0.0	KY 262	2.0 US 41A
*	KY 813	0.8	Claude Young RD	2.8 US 62
*	KY 813	10.2	Mortons Gap-WH CTY RD	12.3 US 41A
*	KY 814	0.0	KY 109	1.4 Webster CO LN
*	KY 879	0.0	KY 112	0.2 Southard Church Road
		(Extended weights shall be available only for Types III and IV vehicles.)		
*	KY 1751	0.0	US 41A	1.4 US 41
	Weight Limit - Bridge over L&N RR @ milepoint 1.14			
	TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 58 tons			
*	KY 2086	0.0	Walnut Grove RD	1.2 KY 109
*	KY 2273	0.0	KY 109	0.2 Ferguson Town Spur RD
*	KY 2663	0.0	Mine Access RD	0.6 KY 2655
*	Old Hanson-Slaughters Road			
	CR 5073	0.0	Jasper Reynolds RD	0.4 KY 2655
*	Jasper Reynolds RD			
	CR 5081	0.0	US 41	0.4 Old Hanson RD
*	Herbert Brown RD			
	CR 5082	0.0	Old Hanson RD	0.1 KY 2655
*	McLeod Road			
	CR 5140	0.0	KY 3361)	0.3 Mine & Tipple
*	Mortons Gap-White City Road			
	CR 5153	0.0	KY 813	1.8 Mine
*	Claude Young Road			
	CR 5169	0.0	KY 813	1.7 Orton Bridge RD
*	Orton Bridge Road			
	CR 5170	1.0	Claude Young RD	1.3 Private Haul Road
*	Wells Road			
	CR 5212	7.9	Barnsley Loop RD	8.7 Mine
*	Barnsley Loop Road			
	CR 5217	0.0	US 41A	1.5 Wells Road
*	Leonard Jackson Road			
	CR 5262	0.0	Dawson Daylight RD	1.0 Private Haul RD
*	Walnut Grove Road			
	CR 5301	0.0	Mine	0.6 KY 2086
*	Dawson Daylight Road			
	CR 5305	0.0	KY 109	2.4 Leonard Jackson RD
*	Ferguson Town Spur Road			
	CR 5311	0.0	Ferguson Town RD	0.1 Roberts Bros Tipple
*	Peter Howton Road			
	CR 5330	0.0	KY 70	0.3 Mine
*	Bean Cemetery Road			
	CR 5396	0.4	Mine	2.9 KY 262
	Weight Limit - Bridge over Greasy Creek			
	TY I = 11 tons, TY II = 11 tons, TY III = 11 tons, TY IV = 11 tons			

JACKSON COUNTY

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

JEFFERSON COUNTY

	ROAD	FROM	TO
*	US 31E	0.0 Bullitt CO LN	5.5 KY 1065
	Weight Limit - Bridge over Floyd's Fork Creek @ milepoint 0.58		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
		16.7 US 42	17.8 US 31W @ Second Street
*	US 31W	3.2 Kosmos Cement CO	22.1 US 31E @ Second Street
*	US 42	0.0 US 31E	0.8 US 60
	Weight Limit - Bridge over Beargrass Creek @ milepoint 0.23		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
*	US 60	0.0 US 42 (Westbound)	17.4 Shelby CO LN
	Weight Limit - Bridge over Floyd's Fork @ milepoint 13.56		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
	Weight Limit - Bridge over Longrun Creek @ milepoint 15.79		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
*	KY 841	0.0 US 31W	6.1 KY 1865
*	KY 864	4.3 KY 1065 (East)	4.4 KY 1065 (West)
*	KY 1065	1.0 KY 1865	10.0 KY 864
	Weight Limit - Bridge over Northern Ditch @ milepoint 1.40		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
	Weight Limit - Bridge over I-65 @ milepoint 4.75		
	TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 60 tons		
		10.0 KY 864	11.9 US 31E
*	KY 1865	0.9 KY 841	1.3 KY 1065
*	KY 1934	5.5 Ralph AVE	8.4 US 31W
*	KY 2051	5.2 Ralph AVE	6.4 KY 1934
*	KY 2056	0.4 B.F. Goodrich Plant	1.1 I-264
*	Ralph Avenue (Louisville)		
		0.9 KY 1934	1.8 Dupont Plant

JESSAMINE COUNTY

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

JOHNSON COUNTY

	ROAD	FROM	TO
*	US 23	0.0 Floyd CO LN	18.4 Lawrence CO LN
	Weight Limit - Bridge over C&O RR & Levisa Fork @ milepoint 3.53		
	TY I = 20 tons, TY II = 28 tons, TY III = 33 tons, TY IV = 38 tons		
	Weight Limit - Bridge over Paint Creek @ milepoint 8.68		
	TY I = 20 tons, TY II = 43 tons, TY III = 44 tons, TY IV = 55 tons		
*	US 460	0.0 Magoffin CO LN	8.3 US 23
*	KY 3	3.1 Lacker Branch RD	4.7 Martin CO LN
*	KY 40	7.2 KY 172	8.7 US 460
		8.7 US 23	13.3 Deadfall Branch RD
*	KY 172	6.9 Joe Salyers Branch RD	12.4 KY 40
	Weight Limit - Bridge over Mudlick Creek @ milepoint 11.91		
	TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 55 tons		
*	KY 302	2.8 KY 2381	6.5 KY 3
*	KY 2381	0.0 US 23	2.2 KY 302
*	Deadfall Branch Road		
	CR 5139	0.0 KY 40	0.6 Mine Access Road

KNOTT COUNTY

	ROAD	FROM	TO
*	KY 7	2.5 KY 1498	16.0 Floyd CO LN
	Weight Limit - Bridge over Beaver Fork @ milepoint 6.10		
	TY I = 20 tons, TY II = 40 tons, TY III = 41 tons, TY IV = 60 tons		
*	KY 15	0.0 Letcher CO LN	9.4 Perry CO LN
	Weight Limit - Bridge over Carr Fork Reservoir @ milepoint 2.82		
	TY I = 20 tons, TY II = 45 tons, TY III = 49 tons, TY IV = 55 tons		
	Weight Limit - Bridge over Carr Fork Lake @ milepoint 5.64		
	TY I = 20 tons, TY II = 39 tons, TY III = 42 tons, TY IV = 60 tons		
*	KY 80	0.0 Perry CO LN	21.1 Floyd CO LN
*	KY 160	0.0 KY 15	8.8 Cave Branch RD
	Weight Limit - Bridge over Carr Fork Lake @ milepoint 1.74		
	TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 56 tons		
		8.2 KY 1393	13.9 Patsy Jayne Mine
*	KY 550	23.8 Big Springs RD	26.6 Floyd CO LN
	Weight Limit - Bridge over Jones Fork @ milepoint 25.30		
	TY I = 20 tons, TY II = 30 tons, TY III = 31 tons, TY IV = 44 tons		

*	KY 899	7.7 National Mines Mine	12.2 KY 7
	Weight Limit - Bridge over Caney Creek @ milepoint 8.74		
	TY I = 20 tons, TY II = 34 tons, TY III = 35 tons, TY IV = 44 tons		
	Weight Limit - Bridge over Caney Creek @ milepoint 11.82		
	TY I = 20 tons, TY II = 40 tons, TY III = 40 tons, TY IV = 60 tons		
*	KY 1087	1.4 KY 3209	3.4 Mountain Clay Mine
		9.6 C & D Coal Mine	14.1 KY 80
*	KY 1088	3.9 Young's Fork RD	9.4 KY 15
	Weight Limit - Bridge over Yellow Creek @ milepoint 9.12		
	TY I = 20 tons, TY II - 36 tons, TY III = 38 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Carr Creek @ milepoint 9.36		
	TY I = 20 tons, TY II = 38 tons, TY III = 39 tons, TY IV = 56 tons		
*	KY 1091	0.0 KY 7	2.2 Floyd CO LN
	Weight Limit - Bridge over Right Fork of Beaver Creek @ milepoint 0.01		
	TY I = 20 tons, TY II = 41 tons, TY III = 43 tons, TY IV = 60 tons		
*	KY 1098	0.0 Breathitt CO LN	12.0 KY 1087
	Weight Limit - Bridge over Laurel Fork Quicksand Creek @ milepoint 6.94		
	TY I = 20 tons, TY II = 29 tons, TY III = 30 tons, TY IV = 49 tons		
*	KY 1102	1.1 Sandlick Branch RD	2.7 KY 80
*	KY 1231	0.0 KY 15	1.2 Flax Patch Branch RD
*	KY 1393	2.8 KY 899	4.9 KY 160
*	KY 1410	0.0 KY 160	4.7 Letcher CO LN
	Weight Limit - Bridge over Carr Fork @ milepoint 0.01		
	TY I = 20 tons, TY II = 44 tons, TY III = 45 tons, TY IV = 55 tons		
*	KY 1498	0.5 KY 7	1.5 Floyd CO LN
*	KY 3209	0.0 KY 80	0.4 KY 1087
	Weight Limit - Bridge over Ball Fork @ milepoint 0.05		
	TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 60 tons		
*	KY 3391	0.0 KY 1231	1.7 Madden Creek RD
*	Potato Branch RD		
	CR 5005	0.0 KY 7	1.1 Wheelwright Mine
	Weight Limit - Bridge over Right Fork of Beaver Creek		
	TY I = 20 tons, TY II = 23 tons, TY III = 26 tons, TY IV = 44 tons		
*	Patten Branch of Beaver Creek Road		
	CR 5009	0.0 KY 7	0.2 National Mines Mine
*	Big Springs Branch Road		
	CR 5032	0.0 KY 550	0.9 National Mines Mine
	Weight Limit - Bridge over Jones Fork		
	TY I = 19 tons, TY II = 20 tons, TY III = 23 tons, TY IV = 39 tons		
*	Triplett Branch Road		
	CR 5033	0.0 KY 550	0.8 National Mines Mine
*	Rock Fork (Bolyn) Road		
	CR 5037	0.0 KY 80	0.8 Consolidation Mine
*	Bates Branch Road		
	CR 5117	0.0 KY 7	1.4 Wheelwright Mine
*	Perkins Branch-Lick Branch Road		
	CR 5145	0.0 KY 15	0.4 Southeast Coal Mine
*	Runnells Branch Road		
	CR 5156	0.0 KY 160	0.5 Left FK Runnells BR RD
*	Left Fork of Runnells Branch Road		
	CR 5156A	0.0 Runnells Branch RD	0.3 Golden Oak Mine
*	Irishman Creek Road		
	CR 5203	0.0 KY 1231	0.8 R J F Coal Mine
*	Flax Patch Branch Road		
	CR 5208	0.0 KY 1231	0.5 Allied Coals Mine
*	Defeated Creek Road		
	CR 5212	0.0 KY 15	3.2 Meade & Shepherd Mine
*	Young's Fork Road		
	CR 5226	0.0 KY 1088	1.3 Kentucky Prince Mine
*	Middle Fork of Quicksand Creek Road		
	CR 5312	0.0 Decoy-Spring Fork RD	1.0 Big Branch of Quicksand Creek RD
*	Big Branch of Quicksand Creek Road		
	CR 5314	0.0 Miller Branch Mine	1.2 Middle Fork of Quicksand Creek RD
*	Decoy-Spring Fork Road		
	CR 5315	0.0 Breathitt CO LN	1.1 Middle Fork of Quicksand Creek Road
*Sandlick Branch Road			
	CR 5336	0.0 KY 1102	0.9 McCoy Coal Mine

KNOX COUNTY

	ROAD	FROM	TO
*	US 25E	0.0 Bell CO LN	26.6 Laurel CO LN
	Weight Limit - Bridge over Cumberland River @ milepoint 0.85		
	TY I = 20 tons, TY II = 33 tons, TY III = 33 tons, TY IV = 40 tons		
	Weight Limit - Bridge over L&N RR @ milepoint 1.54		
	TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 51 tons		
	Weight Limit - Bridge over Stinking Creek @ milepoint 3.70		
	TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 48 tons		
	Weight Limit - Bridge over Turkey Creek @ milepoint 4.81		
	TY I = 20 tons, TY II = 35 tons, TY III = 36 tons, TY IV = 51 tons		
*	KY 6	0.0 Whitley CO LN	14.7 KY 11
	Weight Limit - Bridge over Lynn Camp Creek @ milepoint 0.23		
	TY I = 20 tons, TY II = 29 tons, TY III = 30 tons, TY IV = 49 tons		
	Weight Limit - Bridge over Stewards Creek @ milepoint 0.83		
	TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Indian Creek @ milepoint 6.15		
	TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Tributary of Indian Creek @ milepoint 6.85		
	TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Indian Creek @ milepoint 8.37		
	TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons		
*	KY 11	0.0 Whitley CO LN	10.1 US 25E
	Weight Limit - Bridge over Little Poplar Creek @ milepoint 2.17		
	TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 51 tons		
		10.1 US 25E	22.7 Clay CO LN
	Weight Limit - Bridge over Little Richland Creek @ milepoint 13.00		
	TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Little Richland Creek @ milepoint 13.39		
	TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Little Richland Creek @ milepoint 13.57		
	TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 60 tons		
*	KY 225	5.9 Kayjay Mine	15.0 US 25E
*	KY 312	0.0 Whitley CO LN	1.3 US 25E
*	KY 930	0.0 KY 225	4.1 US 25E
	Weight Limit - Bridge over Stinking Creek @ milepoint 1.77		
	TY I = 20 tons, TY II = 31 tons, TY III = 33 tons, TY IV = 50 tons		
*	KY 1809	0.0 Whitley CO LN	6.3 KY 11
*	KY 2421	0.0 KY 225	0.9 KY 11
*	Alex Creek Road		
	CR 5031	1.7 Straight Creek RD	2.2 Mine
*	Straight Creek Road		
	CR 5032	0.0 Bell CO LN	0.8 Alex Creek RD
*	Little Brush Creek Road		
	CR 5166	0.0 KY 225	1.6 Lay Branch RD
	Weight Limit - Bridge over Brush Creek		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
*	Lay Branch Road		
	CR 5169	0.0 Little Brush CK RD	0.8 Mine
*	Swan Pond Road		
	CR 5209	0.0 KY 11	1.9 Mine
*	Stoney Fork Road		
	CR 5210	0.0 KY 1809	1.0 Mine
*	Hubbs Road		
	CR 5214	0.0 KY 1809	1.5 Girdner #1 Mine
	Weight Limit - Bridge over Hubbs Creek east of Bryant's Store		
	TY I = 20 tons, TY II = 24 tons, TY III = 28 tons, TY IV = 47 tons		
	Weight Limit - Bridge over Hubbs Creek @ Bain Branch		
	TY I = 3 tons, TY II = 3 tons, TY III = 3 tons, TY IV = 3 tons		
*	Sugartree Road		
	CR 5216	0.0 Hubbs RD	0.5 Terco #1 Mine
	Weight Limit - Bridge over Hubbs Creek		
	TY I = 4 tons, TY II = 4 tons, TY III = 4 tons, TY IV = 4 tons		
*	Davis Branch Road		
	CR 5224	0.0 KY 1809	0.1 Mine
*	Dowis Road		
	CR 5248	0.0 KY 6	0.9 Mosley Branch RD
*	Middle Fork Richland Creek Road		
	CR 5311	0.9 Higgins Road	1.2 H & P Mine
*	Higgins Road		
	CR 5323	0.0 US 25E	0.8 Richland Creek RD

LAUREL COUNTY

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

LAWRENCE COUNTY

	ROAD	FROM	TO
*	US 23	0.0 Johnson CO LN	30.2 Boyd CO LN
*	KY 1	0.0 KY 3	5.0 Olioville-Coal Branch RD
		12.8 KY 201	14.1 Carter CO LN
*	KY 3	0.0 Martin CO LN	15.5 US 23
	Weight limit - Bridge over Levisa & Tug Forks @ milepoint 14.87		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
		24.4 KY 1398	24.7 KY 1
*	KY 3S	0.0 KY 3	0.1 West Virginia State LN
	Weight Limit - Bridge over Levisa & Tug Forks @ milepoint 0.01		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
*	KY 32	8.5 Lower Laurel Creek RD	28.9 US 23
	Weight Limit - Bridge over Cains Creek @ milepoint 9.53		
	TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Blaine Creek @ milepoint 10.10		
	TY I = 20 tons, TY II = 31 tons, TY III = 32 tons, TY IV = 54 tons		
	Weight Limit - Bridge over Hood Creek @ milepoint 10.85		
	TY I = 20 tons, TY II = 36 tons, TY III = 37 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Brushy Creek @ milepoint 16.05		
	TY I = 20 tons, TY II = 32 tons, TY III = 33 tons, TY IV = 54 tons		
	Weight Limit - Bridge over Rich Creek @ milepoint, 18.39		
	TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 59 tons		
	Weight Limit - Bridge over Blaine Creek @ milepoint 22.55		
	TY I = 20 tons, TY II = 35 tons, TY III = 37 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Russey Branch @ milepoint 23.46		
	TY I = 20 tons, TY II = 35 tons, TY III = 37 tons, TY IV = 60 tons		

*	KY 201	5.0	KY 32	18.2	KY 1
	Weight Limit - Bridge over Dry Fork Creek @ milepoint 18.13				
	TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons				
*	KY 645	0.0	US 23	5.2	Martin CO LN
*	KY 1690	1.5	KY 645	1.7	KY 2033
*	KY 1760	0.0	US 23	2.8	Georges Creek RD
*	KY 2033	1.3	KY 1690	3.3	Richardson Mine
*	KY 3398	0.0	US 23	2.3	KY 3
*	Donithon Branch Road				
	CR 5118	0.0	KY 3	1.6	Lockworth Mine
*	Georges Creek Road				
	CR 5156	0.0	KY 1760	1.5	Left FK Brushy CR RD
*	Left Fork Brushy Creek Road				
	CR 5203	0.0	Georges Creek Road	0.8	Mine
*	Lower Laurel Creek Road				
	CR 5221	0.0	KY 32	1.7	Black Wells Mine
	Weight Limit - Bridge over Lower Laurel Creek				
	TY I = 5 tons, TY II = 5 tons, TY III = 5 tons, TY IV = 5 tons				
	Weight Limit - Bridge over Lower Laurel Creek				
	TY I = 10 tons, TY II = 10 tons, TY III = 10 tons, TY IV = 10 tons				
*	Olioville-Coal Branch Road				
	CR 5311	0.0	KY 1	0.3	Mine

LESLIE COUNTY

	ROAD	FROM		TO	
*	Daniel Boone Parkway	35.9	Clay CO LN	51.0	Perry CO LN
*	US 421	0.0	Harlan CO LN	6.3	Mine
		20.6	KY 2431	22.6	KY 18
		26.8	Wet Rockhouse Branch	35.4	Clay CO LN
*	KY 80	0.0	US 421	9.7	Perry CO LN
	Weight Limit - Bridge over Cutshin Creek @ milepoint 5.15				
	TY I = 20 tons, TY II = 27 tons, TY III = 28 tons, TY IV = 43 tons				
	Weight Limit - Bridge over Wooton Creek @ milepoint 6.12				
	TY I = 20 tons, TY II = 29 tons, TY III = 30 tons, TY IV = 46 tons				
	Weight Limit - Bridge over MacIntosh Creek @ milepoint 8.84				
	TY I = 20 tons, TY II = 25 tons, TY III = 26 tons, TY IV = 42 tons				
*	KY 118	0.0	US 421	3.5	Daniel Boone PKWY
*	KY 699	0.0	KY 80	13.6	Old Big Rock RD
	Weight Limit - Bridge over Cutshin Creek @ milepoint 1.96				
	TY I = 20 tons, TY II = 35 tons, TY III = 36 tons, TY IV = 43 tons				
	Weight Limit - Bridge over Maggard Creek @ milepoint 8.14				
	TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons				
		15.2	Mine	16.0	Perry CO LN
*	KY 1807	0.0	KY 80	3.6	Mine Access RD
*	KY 2008	0.0	KY 2009	3.0	Mine Access RD
		5.2	Mine	8.2	Harlan CO LN
*	KY 2009	0.0	Harlan CO LN	5.4	Bledsoe Tipple
	Weight Limit - Bridge over Greasy Creek @ milepoint 3.58				
	TY I = 8 tons, TY II = 8 tons, TY III = 8 tons, TY IV = 8 tons				
*	KY 2057	0.0	KY 699	3.1	Bear BR RD
*	KY 2431	0.0	US 421	0.1	High School
	Weight Limit - Bridge over Middle Fork Kentucky River @ milepoint 0.01				
	TY I = 20 tons, TY II = 27 tons, TY III = 28 tons, TY IV = 32 tons				
*	Wendover Road				
	CR 5001	0.0	KY 2431	1.6	Hurricane Creek RD
*	Hurricane Creek Road				
	CR 5002	2.2	Camp Creek RD	3.3	Wendover RD
*	Camp Creek Road				
	CR 5005	0.0	Hurricane Creek RD	0.7	Tipple Access
*	Bear Branch Road				
	CR 5018	0.0	KY 2057	1.4	Mine & Perry CO LN
*	Bailey Branch Road				
	CR 5027	0.0	KY 1807	0.6	Mine
*	Long Branch Road				
	CR 5118	0.0	KY 699	0.2	Mine
*	Old Big Rock Road				
	CR 5126	0.0	KY 699	0.6	Right Fork of Cutshin RD
	Weight Limit - Bridge over Cutshin Creek				
	TY I = 18 tons, TY II = 18 tons, TY III = 18 tons, TY IV = 18 tons				
*	Right Fork of Cutshin Road				
	CR 5128	0.0	Old Big Rock RD	3.7	Mine

	ROAD	FROM	TO
*	Abner Branch Road		
	CR 5133	0.0 Harlan CO LN	1.3 KY 2008
*	White Oak Road		
	CR 5135	0.0 KY 2008	0.8 Mine
*	Phillips Fork Road		
	CR 5225	5.0 Mine RD	5.2 Mine RD

LETCHER COUNTY

	ROAD	FROM	TO
*	US 23	0.0 Virginia State LN	7.1 Pike CO LN
	Weight Limit - Bridge over Elkhorn Creek @ milepoint 5.83		
	TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 48 tons		
*	US 119	0.0 Harlan CO LN	7.0 Scotia Mine Tipple
		20.7 KY 1862	27.7 US 23
*	KY 7	0.0 Perry CO LN	25.2 KY 317
	Weight Limit - Bridge over Line Fork @ milepoint 0.17		
	TY I = 20 tons, TY II = 25 tons, TY III = 29 tons, TY IV = 34 tons		
	Weight Limit - Bridge over North Fork Kentucky River @ milepoint 2.61		
	TY I = 20 tons, TY II = 32 tons, TY III = 33 tons, TY IV = 48 tons		
	Weight Limit - Bridge over Elk Creek @ milepoint 5.28		
	TY I = 20 tons, TY II = 36 tons, TY III = 38 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Gaudill Branch @ milepoint 8.04		
	TY I = 20 tons, TY II = 41 tons, TY III = 44 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Rockhouse Creek @ milepoint 22.31		
	TY I = 20 tons, TY II = 39 tons, TY III = 39 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Rockhouse Creek @ milepoint 24.78		
	TY I = 20 tons, TY II = 35 tons, TY III = 37 tons, TY IV = 48 tons		
*	KY 15	2.7 KY 931	9.2 KY 7
		9.2 KY 7	10.7 Knott CO LN
*	KY 160	13.4 Lucky Branch RD	21.8 KY 15
	Weight Limit - Bridge over Kings Creek @ milepoint 14.73		
	TY I = 20 tons, TY II = 32 tons, TY III = 33 tons, TY IV = 51 tons		
*	KY 317	0.0 KY 805	0.4 Mine
		1.0 KY 343	8.9 KY 7
*	KY 343	0.0 KY 317	1.5 #2 Hollow Road
	Weight Limit - Bridge over Yount's Fork Creek @ milepoint 0.08		
	TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons		
	Weight Limit - Bridge over Wright's Fork @ milepoint 0.46		
	TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons		
	Weight Limit - Bridge over Wright's Fork @ milepoint 0.65		
	TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons		
*	KY 588	3.7 Tolson Loading	5.0 KY 160
		5.0 KY 160	11.0 Mine
*	KY 805	0.0 US 119	3.1 KY 317
*	KY 931	7.7 Hampton Branch RD	*
		16.4 Clay Hollow	18.4 KY 7
*	KY 1103	6.0 Private Haul RD	8.2 Tolby Branch RD
*	KY 1410	0.0 Knott CO LN	1.6 KY 7
*	KY 1862	1.2 KY 3410	1.7 US 119
		6.4 Mine	9.9 KY 931
*	KY 3410	0.0 Cram Creek-Pert Creek RD	1.1 KY 1862
*	Clay Hollow Road		
	CR 5010	0.0 KY 931	0.2 Golden Oak Mine
*	Beaverdam Branch Road		
	CR 5047	0.0 KY 7	2.7 Mine
*	Bottom Fork Road		
	CR 5068L	0.2 Tammy Ann Mine	0.7 #2 Hollow Road
*	#2 Hollow Road		
	CR 5068M	0.0 Bottom Fork Road	0.6 KY 343
*	Marshall Branch Road		
	CR 5103	0.0 Pike CO LN	0.3 Pike CO LN
*	Cram Creek Road		
	CR 5169	0.9 Wampler Bros Mine	1.4 KY 3410
*	Kingdom Come Creek Road		
	CR 5229	0.0 Ky 588	1.2 Lake Coal Mine
	Weight Limit - Bridge over Kingdom Come Creek		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
*	Big Branch-Tolson Branch Road		
	CR 5258	0.0 KY 588	1.4 Lake Coal Mine
*	Whitaker Branch Road		
	CR 5259	1.4 Mine	2.5 Big BR-Tolson BR RD

*	Defeated Creek Road		
	CR 5265	5.1 Southeast Mine	5.6 KY 1103
	Weight Limit - Bridge over Line Fork Creek		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
*	Lucky Branch Road		
	CR 5272	0.0 KY 160	0.4 Lake Coal Mine
*	Johnson Branch Road		
	CR 5309	0.0 KY 160	0.3 Whitaker Mine
*	Bee Tree Branch Road		
	CR 5311	0.0 KY 160	1.0 Lake Coal Mine
*	Hollybush Branch Road		
	CR 5312	0.0 KY 160	0.4 Golden Oak Mine
*	Stamper's Branch Road		
	CR 5335	0.0 KY 7	0.8 Whitaker Mine
*	Hicks Branch Road		
	CR 5338	0.0 KY 7	0.1 Isom #2 Tipple
	Weight Limit - Bridge over Rockhouse Creek		
	TY I = 9 tons, TY II = 9 tons, TY III = 9 tons, TY IV = 9 tons		
*	Caudill Creek Road		
	CR 5354	0.0 KY 7	2.3 Golden Oak Mine

LINCOLN COUNTY

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

LIVINGSTON COUNTY

	ROAD	FROM	TO
*	US 62	0.0 Marshall CO LN	2.9 Lyon CO LN
	Weight Limit - Bridge over Kentucky Lake Dam Lock @ milepoint 0.31		
	TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 55 tons		
	Weight Limit - Bridge over I.C. Gulf R.R. @ milepoint 0.64		
	TY I = 20 tons, TY II = 39 tons, TY III = 38 tons, TY IV = 51 tons		
	Weight Limit - Bridge over Reed's Haul Road @ milepoint 0.97		
	TY I = 20 tons, TY II = 43 tons, TY III = 44 tons, TY IV = 54 tons		
	Weight Limit - Bridge over Cumberland River @ milepoint 2.78		
	TY I = 20 tons, TY II = 26 tons, TY III = 29 tons, TY IV = 38 tons		
*	KY 453	0.5 B R T Dock	2.8 US 62
	Weight Limit - Bridge over IC RR @ milepoint 1.92		
	TY I = 20 tons, TY II = 46 tons, TY III = 47 tons, TY IV = 60 tons		

LOGAN COUNTY

	ROAD	FROM	TO
*	US 68	11.2 US 79 & KY 100	26.6 Warren CO LN
*	US 79	0.0 Todd CO LN	12.9 US 68
	Weight Limit - Bridge over Vick's Branch @ milepoint 2.91		
	TY I = 20 tons, TY II = 40 tons, TY III = 40 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Branch of Whippoorwill Creek @ milepoint 4.64		
	TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Dry Fork @ milepoint 5.93		
	TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 54 tons		

LYON COUNTY

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

McCREARY COUNTY

	ROAD	FROM	TO
*	US 27	0.0 Tennessee State LN	22.7 Pulaski CO LN
*	KY 92	17.3 Railroad DR	28.4 Whitley CO LN
	Weight Limit - Bridge over Marsh Creek @ milepoint 25.42		
	TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 59 tons		

	ROAD	FROM	TO
*	KY 1673	0.0 Whitley CO LN	0.6 Whitley CO LN
*	Railroad Drive CR 5203	0.0 KY 92	0.3 Revelo Prep Plant
*	Bauer Road CR 5333	0.0 US 27	3.8 Pulaski CO LN

McLEAN COUNTY

	ROAD	FROM	TO
*	KY 81	12.8 KY 1792	18.3 Daviess CO LN
*	KY 136	11.1 KY 1792	12.9 KY 81
	Weight Limit - Bridge over Long Falls Creek @ milepoint 11.26		
	TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 56 tons		
*	KY 140	0.0 KY 256	0.1 KY 1792
*	KY 256	5.6 Mine	5.9 KY 140
*	KY 1792	0.0 KY 140	2.6 KY 136
	Weight Limit - Bridge over Porters Drainage Ditch @ milepoint 0.92		
	TY I = 20 tons, TY II = 28 tons, TY III = 30 tons, TY IV = 48 tons		

MADISON COUNTY

	ROAD	FROM	TO
*	KY 627	0.1 I-75	6.2 Clark CO LN
	Weight Limit - Bridge over I-75 @ milepoint 0.11		
	TY I = 20 tons, TY II = 44 tons, TY III = 45 tons, TY IV = 60 tons		

MAGOFFIN COUNTY

	ROAD	FROM	TO
*	Mountain PKWY (KY 402)	71.7 KY 30	75.6 US 460
	Weight Limit - Bridge over Licking River @ milepoint 74.51		
	TY I = 20 tons, TY II = 39 tons, TY III = 40 tons, TY IV = 50 tons		
*	US 460	0.0 Morgan CO LN	20.4 Johnson CO LN
	Weight Limit - Bridge over Licking River @ milepoint 1.75		
	TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 42 tons		
	Weight Limit - Bridge over State Road Fork Creek @ milepoint 11.35		
	TY I = 20 tons, TY II = 32 tons, TY III = 33 tons, TY IV = 44 tons		
*	KY 7	3.2 Mine Access RD	23.9 Mountain Parkway (KY 402)
	Weight Limit - Bridge over Licking River @ milepoint 5.79		
	TY I = 20 tons, TY II = 33 tons, TY III = 35 tons, TY IV = 57 tons		
*	KY 30	4.5 Mine Access RD	8.9 Mountain Parkway (KY 402)
	Weight Limit - Bridge over Middle Fork @ milepoint 7.55		
	TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 48 tons		
*	KY 114	0.0 US 460	5.0 Floyd CO LN
*	KY 404	0.0 KY 7	2.7 Floyd CO LN
*	KY 542	0.0 Breathitt CO LN	5.8 KY 7
*	KY 867	4.0 Mine Access RD	5.7 KY 7
		5.7 KY 7	7.4 Hickory Tipple
*	KY 1471	0.0 Big Half Mountain RD	4.3 KY 7
	Weight Limit - Bridge over Licking River @ milepoint 3.96		
	TY I = 15 tons, TY II = 15 tons, TY III = 15 tons, TY IV = 15 tons		
*	KY 1635	0.0 Tiptop-Bettsmann RD	5.7 KY 867
*	Brushy Fork Road CR 5132	0.0 KY 7	1.0 Mine
*	Bull Creek Road CR 5140	0.0 KY 7	0.4 Mine
*	Jake Wireman Road CR 5144	0.0 KY 1502	1.0 Mines
*	Beetree Branch Road CR 5145	0.0 KY 7	0.7 Mine
*	Big Half Mountain Road CR 5148	0.0 Mine	0.5 KY 1471
	Weight Limit - Bridge over Big Half Mountain Creek		
	TY I = 5 tons, TY II = 5 tons, TY III = 5 tons, TY IV = 5 tons		
*	Wright Oakley Creek Road CR 5221	0.0 KY 1635	0.3 Mine
	Weight Limit - Bridge over Oakley Creek		
	TY I = 6 tons, TY II = 6 tons, TY III = 6 tons, TY IV = 6 tons]		
*	Tiptop-Bettsmann Branch Road CR 5225B	0.0 Breathitt CO LN	0.7 KY 1635

MARSHALL COUNTY

	ROAD	FROM	TO
*	US 62	7.2 KY 95	12.1 Livingston CO LN
	Weight Limit - Bridge over KY 282 @ milepoint 8.67		
	TY I = 20 tons, TY II = 40 tons, TY III = 39 tons, TY IV = 53 tons		

Weight Limit - Bridge over Cypress Drainage Ditch @ milepoint 9.48
TY I = 20 tons, TY II = 40 tons, TY III = 40 tons, TY IV 53 tons
Weight Limit - Bridge over Tennessee River Dam Gates @ milepoint 11.94
TY I = 20 tons, TY II = 35 tons, TY III = 37 tons, TY IV 48 tons

*	US 68	9.7 US 641 (North)	10.1 US 641 (South)	
*	US 641	0.0 Calloway CO LN	12.9 US 68 (Southeast)	

Weight Limit - Bridge over Town Creek @ milepoint 7.94
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
Weight Limit - Bridge over Town Creek @ milepoint 7.95
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV 40 tons

		12.9 US 68 (Northwest)	19.4 US 62	
*	KY 95	4.1 US 62	7.3 KY 1523	

Weight Limit - Bridge over Cypress Creek @ milepoint 6.32
TY I = 20 tons, TY II = 45 tons, TY III = 47 tons, TY IV 60 tons

MARTIN COUNTY

	ROAD	FROM	TO
*	KY 3	0.0 Johnson CO LN	11.6 KY 645 (North)
		18.5 Rockcastle BR RD	23.2 Lawrence CO LN
*	KY 40	5.3 KY 1224	9.1 KY 645 (West)

Weight Limit - Bridge over Rockcastle Fork @ milepoint 6.95
TY I = 20 tons, TY II = 35 tons, TY III = 36 tons, TY IV = 53 tons

		10.8 KY 645 (East)	20.3 West Virginia ST LN
*	KY 292	0.0 Pike CO LN	13.2 KY 40

Weight Limit - Bridge over Wolfe Creek @ milepoint 11.99
TY I = 20 tons, TY II = 35 tons, TY III = 36 tons, TY IV = 43 tons

		28.5 Mine	28.9 KY 3
*	KY 645	0.0 Lawrence CO LN	6.6 KY 3 (North)
		6.6 KY 3 (South)	7.6 KY 40 (East)
*	KY 1224	1.3 Mine	5.2 KY 40

Weight Limit - Bridge over Rockcastle Fork @ milepoint 4.32
TY I = 20 tons, TY II = 39 tons, TY III = 39 tons, TY IV = 55 tons

*	KY 1439	0.0 Pike CO LN	11.2 KY 1714

Weight Limit - Bridge over Wolfe Creek @ milepoint 1.83
TY I = 20 tons, TY II = 31 tons, TY III = 32 tons, TY IV = 45 tons

*	KY 1714	3.6 KY 1439	9.2 KY 292
*	KY 2032	0.0 KY 1439	4.0 KY 40
*	Emily Branch Road		
	CR 5105	3.1 Private Haul RD	3.2 Private Haul RD 1.0 miles SW of Oppy
*	Emily-Long Branch RD		
	CR 5107	0.9 Private Haul RD	1.0 Private Haul RD
*	Laurel Fork-Wolf Creek Road		
	CR 5202	0.0 KY 1439	7.8 Private Access Road
*	Middle Fork of Wolf Creek Road		
	CR 5205	0.0 Middle Fork of Rockcastle Creek RD	3.7 Mine
*	Middle Fork of Rockcastle Creek Road		
	CR 5206	0.0 KY 3	0.2 Mid FK Wolf CK RD
*	Mudlick Branch Road		
	CR 5210	0.0 KY 3	0.8 Mine
*	Peter Cave Branch Road		
	CR 5315	0.0 KY 3	0.5 Mine
*	Rockcastle Branch Road		
	CR 5317	0.0 KY 3	0.5 Mine

MASON COUNTY

	ROAD	FROM	TO
*	US 62	12.7 US 68	17.4 KY 10 (West)
*	US 68	0.0 Fleming CO LN	11.9 US 62
*	KY 8	0.0 Bracken CO LN	11.0 KY 10

Weight Limit - Bridge over Phillips Creek @ milepoint 7.11
TY I = 20 tons, TY II = 32 tons, TY III = 33 tons, TY IV = 39 tons

*	KY 10	9.7 US 68	15.9 Spring Creek RD

Weight Limit - Bridge over L&N RR @ milepoint 9.79
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
Weight Limit - Bridge over Bull Fork @ milepoint 13.30
TY I = 20 tons, TY II = 40 tons, TY III = 40 tons, TY IV = 60 tons

*	KY 11	0.0 Fleming CO LN	11.3 US 62

Weight Limit - Bridge over Mill Creek @ milepoint 0.16
TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 59 tons

*	Spring Creek Road		
	CR 5012	0.0 KY 10	1.8 Cabin Creek PK

Weight Limit - Bridge over Spring Creek 1.2 miles east of Plumville
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons

Weight Limit - Bridge over Spring Creek @ Cabin Creek Pike
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons

	ROAD	FROM	TO
*	Cabin Creek Pike		
	CR 5013	0.0 Spring Creek RD	0.7 Dravo Lime CO

MERCER COUNTY

	ROAD	FROM	TO
*	Bluegrass PKWY	52.3 Anderson CO LN	56.3 Anderson CO LN

Weight Limit - Bridge over Salt River @ milepoint 56.27
TY I = 20 tons, TY II = 42 tons, TY III = 43 tons, TY IV = 54 tons

*	US 127	0.0 Boyle CO LN	4.4 US 68

MONTGOMERY COUNTY

	ROAD	FROM	TO
*	US 460	7.3 KY 11 (North)	8.3 KY 686 (North)
*	KY 11	0.0 Powell CO LN	9.2 KY 686 (South)

Weight Limit - Bridge over Lulbegrud Creek @ milepoint 3.92
TY I = 20 tons, TY II = 40 tons, TY III = 42 tons TY IV = 58 tons
Weight Limit - Bridge over Lulbegrud Creek @ milepoint 5.38
TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons

		10.0 US 460 (North)	15.4 Bath CO LN
*	KY 686	0.0 US 460 (North)	2.7 KY 11 (South)

MORGAN COUNTY

	ROAD	FROM	TO
*	US 460	20.1 Malone-Jones Creek RD	28.8 Magoffin CO LN

Weight Limit - Bridge over Licking River @ milepoint 23.74
TY I = 17 tons, TY II = 24 tons, TY III = 25 tons, TY IV = 40 tons

*	KY 172	21.0 Cindas Creek RD	22.3 KY 1614
*	Malone-Jones Creek Road		
	CR 5175	0.0 KY 7	2.0 Mine

MUHLENBERG COUNTY

	ROAD	FROM	TO
*	Western Kentucky Parkway		
		43.4 Hopkins CO LN	57.9 US 431

Weight Limit - Bridge over Pond River Relief @ milepoint 43.60
TY I = 20 tons, TY II = 39 tons, TY III = 39 tons, TY IV = 60 tons
Weight Limit - Bridge over KY 175-IC RR - Unnamed Creek @ milepoint 48.05
TY I = 20 tons, TY II = 41 tons, TY III = 42 tons, TY IV = 60 tons
Weight Limit - Bridge over KY 181 @ milepoint 52.52
TY I = 20 tons, TY II = 38 tons, TY III = 39 tons, TY IV = 55 tons
Weight Limit - Bridge over IC RR @ milepoint 55.51
TY I = 20 tons, TY II = 42 tons, TY III = 43 tons, TY IV = 59 tons
Weight Limit - Bridge over L&N RR, Branch Little Cypress Creek @ milepoint 57.58
TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 60 tons

*	US 62	1.3 Henry Oates RD	10.5 KY 176

Weight Limit - Bridge over Branch of Thompson Creek @ milepoint 3.68
TY I = 20 tons, TY I = 28 tons, TY III = 31 tons, TY IV = 40 tons
Weight Limit - Bridge over I.C. & Gulf R.R. @ milepoint 5.40
TY I = 20 tons, TY II = 42 tons, TY III = 43 tons, TY IV = 57 tons

		19.2 KY 604	26.0 Ohio CO LN

Weight Limit - Bridge over I.C. RR @ milepoint 24.71
TY I = 20 tons, TY II = 28 tons, TY III = 28 tons, TY IV = 36 tons

*	US 431	11.5 KY 176	25.5 Mine

Weight limit - Bridge over Pond Creek @ milepoint 12.45
TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons
Weight Limit - Bridge over Western KY Parkway @ milepoint 17.48
TY I = 20 tons, TY II = 44 tons, TY III = 46 tons, TY IV = 60 tons

*	KY 70	0.0 Hopkins County Line	14.7 KY 189
		(Extended weights shall be available only for TY IV vehicles.)	
		23.6 Barge Dock	23.8 Butler CO LN

Weight Limit - Bridge over Mud River @ milepoint 23.75
TY I = 20 tons, TY II = 38 tons, TY III = 39 tons, TY IV = 46 tons

*	KY 176	0.0 US 62	12.5 T V A Paradise Plant

Weight Limit - Bridge over Pond Creek @ milepoint 4.29
TY I = 20 tons, TY II = 40 tons, TY III = 40 tons, TY IV = 60 tons

*	KY 189	6.0 Mine Access	8.8 US 62 (South Junction)
		14.0 US 62	15.3 KY 70 (North Junction)
		(Extended weights shall be available only for TY IV vehicles.)	
*	KY 277	2.6 KY 602	3.8 KY 1379
	***KY 601**	**5.1 CR 5419**	**5.8 CR 5417**
*	KY 602	0.0 KY 277	0.7 US 431

*	KY 604	0.0 US 431	1.0 US 62	
	Weight Limit - Bridge over Western Kentucky Parkway @ milepoint 0.34			
	TY I = 20 tons, TY II = 28 tons, TY III = 29 tons, TY IV = 39 tons			
*	KY 1379	0.0 KY 277	0.5 Prep Plant Access	
	Weight Limit - Bridge over Unnamed Stream @ milepoint 0.25			
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons			
*	Wilcox Cemetery Road			
	CR 5003	0.0 US 421	0.6 Mine	
*	Green River Power Plant Road			
	CR 5045	0.0 US 431	0.7 KY Utilities Plant	
*	Henry Oates Road			
	CR 5392	0.0 US 62	2.3 Mine	

NELSON COUNTY

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

NICHOLAS COUNTY

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

OHIO COUNTY

	ROAD	FROM	TO
*	Western KY PKWY	74.6 US 231	76.8 Green River Parkway
	Weight Limit - Bridge over US 231 @ milepoint 74.56		
	TY I = 20 tons, TY II = 43 tons, TY III = 45 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Arnold-Butler Road @ milepoint 85.72		
	TY I = 20 tons, TY II = 42 tons, TY III - 44 tons, TY IV = 60 tons		
*	Green River PKW	35.1 Butler CO LN	59.5 Daviess CO LN
	Weight Limit - Bridge over Rough River @ milepoint 49.34		
	TY I = 20 tons, TY II = 44 tons, TY III = 45 tons, TY IV = 54 tons		
*	US 62	0.0 Muhlenberg CO LN	19.0 Horton-MT Pleasant RD
	Weight Limit - Bridge over Green River @ milepoint 0.01		
	TY I = 20 tons, TY II = 27 tons, TY III = 32 tons, TY IV = 38 tons		
	Weight Limit - Bridge over Lewis Creek @ milepoint 1.45		
	TY I = 20 tons, TY II = 32 tons, TY III = 32 tons, TY IV = 57 tons		
	Weight Limit - Bridge over Branch of Three Lick Fork @ milepoint 11.91		
	TY I = 20 tons, TY II = 33 tons, TY III = 35 tons, TY IV = 49 tons		
	Weight Limit - Bridge over Three Lick Fork @ milepoint 12.03		
	TY I = 20 tons, TY II = 36 tons, TY III = 38 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Muddy Creek @ milepoint 12.30		
	TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 59 tons		
	Weight Limit - Bridge over Elmlick Creek @ milepoint 14.95		
	TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 53 tons		
*	US 231	0.0 Butler CO LN	10.0 US 62 (South)
		10.0 US 62 (North)	24.3 Daviess CO LN
	Weight Limit - Bridge over North Fork Muddy Creek @ milepoint 12.30		
	TY I = 20 tons, TY II = 34 tons, TY III = 36 tons, TY IV = 59 tons		
	Weight Limit - Bridge over Barnett Creek @ milepoint 20.30		
	TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 60 tons		
*	KY 69	6.9 Mine	7.6 KY 85 (South)
		13.7 US 231 (South)	15.4 Country Club Road
*	KY 85	7.2 KY 69 (East)	11.3 US 62
	Weight Limit - Bridge over Branch West Fork Lewis Creek @ milepoint 9.62		
	TY I = 20 tons, TY II = 33 tons, TY III = 35 tons, TY IV = 56 tons		
*	KY 1414	14.0 Sugar Grove RD	15.7 KY 54
*	KY 1903	0.0 US 62	0.9 Lewis Creek Dock
*	Sunnydale Road		
	CR 5076	8.3 Sugar Grove RD	8.4 Sugar Grove RD

	ROAD	FROM	TO
*	Sugar Grove Road		
	CR 5077	0.0 KY 1414	1.5 Sunnydale RD
		1.5 Sunnydale RD	2.0 Mine
*	Horton-Mount Pleasant Road		
	CR 5125	0.0 US 62	0.1 Southwind Tipple
	Weight Limit - Bridge over Pigeon Creek		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
*	Whoopee Hill Road		
	CR 5356	0.0 US 231	1.5 Rone RD
*	Rone Road		
	CR 5356A	0.0 Whoopee Hill RD	0.5 Mine
*	Maple Lake Road (Old Martin-Dodson Cemetery Road)		
	CR 5373	0.1 US 231	0.7 Mine

OWSLEY COUNTY

	ROAD	FROM	TO
*	KY 11	0.0 Clay CO LN	10.8 KY 1938
	Weight Limit - Bridge over Sexton Creek @ milepoint 1.80		
	TY I = 20 tons, TY II = 39 tons, TY III = 40 tons, TY IV = 53 tons		
	Weight Limit - Bridge over Island Creek @ milepoint 4.02		
	TY I = 20 tons, TY II = 41 tons, TY III = 42 tons, TY IV = 56 tons		
	Weight Limit - Bridge over White Oak Creek @ milepoint 6.18		
	TY I = 20 tons, TY II = 34 tons, TY III = 35 tons, TY IV = 49 tons		
*	KY 30	0.0 Jackson CO LN	10.8 KY 847
	Weight Limit - Bridge over Little Sturgeon Creek @ milepoint 3.42		
	TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Little Sturgeon Creek @ milepoint 4.88		
	TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Little Sturgeon Creek @ milepoint 5.15		
	TY I = 20 tons, TY II = 29 tons, TY III = 30 tons, TY IV = 49 tons		
*	KY 847	4.3 Bowman Branch RD	7.2 KY 30
	Weight Limit - Bridge over Buck Creek @ milepoint 6.34		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
*	Hurricane Branch Road		
	CR 5301	0.0 Bowman Branch Road	1.1 Denham & Lewis Mine
*	Bowman Branch Road		
	CR 5303	0.0 KY 847	0.3 Hurricane Branch RD

PENDLETON COUNTY

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

PERRY COUNTY

	ROAD	FROM	TO
*	Daniel Boone Parkway		
		51.0 Leslie CO LN	59.1 KY 15
*	KY 7	0.0 KY 15	13.6 Letcher CO LN
	Weight Limit - Bridge over Maces @ milepoint 2.44		
	TY I = 20 tons, TY II = 39 tons, TY III = 40 tons, TY IV = 53 tons		
*	KY 15	0.0 Knott CO LN	25.2 Breathitt CO LN
	Weight Limit - Bridge over Main Street, Carr Fork, & L&N RR @ milepoint 0.20		
	TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 55 tons		
	Weight Limit - Bridge over Carr Fork & L&N RR @ milepoint 3.37		
	TY I = 20 tons, TY II = 45 tons, TY III = 48 tons, TY IV = 55 tons		
	Weight Limit - Bridge over L&N RR @ milepoint 13.17		
	TY I = 20 tons, TY II = 45 tons, TY III = 50 tons, TY IV = 55 tons		
	Weight Limit - Bridge over KY 80, N Fork KY River @ milepoint 13.57		
	TY I = 20 tons, TY II = 44 tons, TY III = 45 tons, TY IV = 49 tons		
	Weight Limit - Bridge over First Creek & L&N RR @ milepoint 15.95		
	TY I = 20 tons, TY II = 41 tons, TY III = 42 tons, TY IV = 56 tons		
*	KY 28	3.5 Buckhorn-Breathitt RD	6.0 Breathitt CO LN
		6.0 Breathitt CO LN	18.1 KY 15
	Weight Limit - Bridge over Grapevine Creek @ milepoint 15.02		
	TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons		

*	KY 80	0.0 Leslie CO LN	7.9	KY 15 Underpass
	Weight Limit - Bridge over Right Fork of Big Creek @ milepoint 1.57			
	TY I = 20 tons, TY II = 25 tons, TY III = 28 tons, TY IV = 46 tons			
	Weight Limit - Bridge over Big Creek @ mile point 5.27			
	TY I = 20 tons, TY II = 27 tons, TY III = 30 tons, TY IV = 44 tons			
	Weight Limit - Bridge over L & N R.R. & Kentucky River @ milepoint 7.09			
	TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 43 tons			
		7.9 D Boone Parkway & KY 15	15.9	Knott CO LN
*	KY 451	5.0 Mine	7.7	Daniel Boone Parkway
		7.7 Daniel Boone PKWY	7.8	KY 80
		7.8 KY 80	10.9	KY 2021
*	KY 463	1.4 Jackson Fork RD	6.5	KY 699
	Weight Limit - Bridge over Leatherwood Creek @ milepoint 6.34			
	TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 60 tons			
*	KY 476	2.0 KY 550	2.4	Black Gold Tipple
	Weight Limit - Bridge over Lotts Creek @ milepoint 2.07			
	TY I = 20 tons, TY II = 19 tons, TY III = 20 tons, TY IV = 30 tons			
	Weight Limit - Bridge over Lotts Creek @ milepoint 2.22			
	TY I = 20 tons, TY II = 21 tons, TY III = 22 tons, TY IV = 29 tons			
		2.9 KY 1088	18.1	Mine
	Weight Limit - Bridge over Jake's Creek @ milepoint 3.65			
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons			
	Weight Limit - Bridge over Troublesome Creek @ milepoint 8.72			
	TY I = 20 tons, TY II = 24 tons, TY III = 27 tons, TY IV = 38 tons			
	Weight Limit - Bridge over Ball Fork @ milepoint 12.36			
	TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 54 tons			
		22.2 Buckhorn Creek Road	22.3	Breathitt CO LN
*	KY 550	0.0 KY 15 & KY 80	2.5	KY 476
	Weight Limit - Bridge over Big Leather Creek @ milepoint 2.4			
	TY I = 20 tons, TY II = 35, TY III = 36 tons, TY IV = 48 tons			
*	KY 699	0.0 Leslie CO LN	4.8	KY 463
	Weight Limit - Bridge over Leatherwood Creek @ milepoint 4.75			
	TY I = 20 tons, TY II = 33 tons, TY III = 35 tons, TY IV = 57 tons			
		6.5 Beech Fork RD	12.5	KY 7
	Weight Limit - Bridge over Leatherwood Creek @ milepoint 8.01			
	TY I = 20 tons, TY II = 38 tons, TY III = 38 tons, TY IV = 60 tons			
	Weight Limit - Bridge over Big Leather Creek @ milepoint 10.77			
	TY I = 20 tons, TY II = 41 tons, TY III = 42 tons, TY IV = 60 tons			
*	KY 1087	0.0 KY 476	0.7	Lick Branch RD
*	KY 1088	0.0 KY 476	1.1	Mine
*	KY 1095	0.4 Emmons Tipple	2.9	KY 15
	Weight Limit - Bridge over Carr Fork @ milepoint 2.55			
	TY I = 18 tons, TY II = 19 tons, TY III = 22 tons, TY IV = 31 tons			
*	KY 1096	0.0 KY 80	4.0	Whitaker Tipple
	Weight Limit - Bridge over Big Creek @ milepoint 0.02			
	TY I = 20 tons, TY II = 40 tons, TY III = 38 tons, TY IV = 46 tons			
	Weight Limit - Bridge over Big Creek @ milepoint 3.55			
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons			
*	KY 1146	2.2 Jakes Fork Tipple	2.7	KY 476
	Weight Limit - Bridge over Trace Fork @ milepoint 2.69			
	TY I = 20 tons, TY II = 28 tons, TY III = 31 tons, TY IV = 31 tons			
		2.7 KY 476	4.0	KY 80
		4.0 KY 80	4.6	Buckhorn Prep Plant
*	KY 2021	1.1 Beech Oak Branch	3.4	KY 451
*	KY 3196	0.0 Beech Fork RD	0.1	KY 699
	Weight Limit - Bridge over Leatherwood Creek @ milepoint 0.01			
	TY I = 20 tons, TY II = 36 tons, TY III = 38 tons, TY IV = 60 tons			
*	KY 3348	0.1 Little Leatherwood Creek RD	3.9	KY 699
	Weight Limit - Bridge over Little Leatherwood Creek @ milepoint 1.44			
	TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons			
	Weight Limit - Bridge over Little Leatherwood Creek @ milepoint 2.32			
	TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons			
*	Wayne Davidson Road			
	CR 5005	0.3 Cumberland Elk Tipple	0.5	KY 15
*	Dwarf-Engle Fork Road			
	CR 5032	0.0 KY 476	0.1	Highland Coal Mine
*	Coates Branch Road			
	CR 5044	0.0 Ky 476	0.5	Ball Branch Mine
*	Lick Branch Road			
	CR 5045	0.0 KY 1087	0.6	Star Fire Mine
*	Buckhorn Creek Road			
	CR 5070	0.0 KY 476	0.1	Breathitt CO LN
	Weight Limit - Bridge over Troublesome Creek			
	TY I = 16 tons, TY II = 16 tons, TY III = 16 tons, TY IV = 16 tons			

*	Old KY 15 Loop #1 Road			
	CR 5102	0.0 KY 15	0.2	Kentucky Prince Tipple
*	Oakwood Avenue-Stacy Branch Road			
	CR 5117	0.0 Main ST (Vicco)	1.3	Chester Tipple
*	Main Street (Vicco)			
	CR 5118B	0.0 KY 1095	0.2	Oakwood Ave-Stacey Branch RD
*	Kelly Fork Road			
	CR 5119	0.0 KY 1095	0.4	Emmons Tipple
*	Straight Fork Road			
	CR 5140	0.0 Little Leatherwood Creek RD	0.5	Mine
*	Beech Fork Road			
	CR 5146	0.0 KY 3196	3.0	Lee Mine
*	Jackson Fork Road			
	CR 5152	0.0 KY 463	0.4	Blue Diamond Mine
*	Beech Oak Branch Road			
	CR 5213	0.0 KY 2021	0.9	Mine
*	Sam Campbell Branch Road (Old Pigeon Roose-Hull School RD)			
	CR 5319	0.0 KY 15	4.8	Dun Raven Tipple
*	Clear Fork Road			
	CR 5320	0.0 KY 28	2.3	Sam Campbell BR RD
*	Barwick Road			
	CR 5330	0.0 KY 28	0.8	Breathitt CO LN
*	Right Fork Spencer Creek Road			
	CR 5332	0.0 Spencer Creek-Napfor BR RD	1.0	Vires Coal Mine
*	Spencer Creek-Napfor Branch Road			
	CR 5333	0.0 KY 28	1.9	Pine Branch Mine
*	Buckhorn-Breathitt County Line Road			
	CR 5349	0.0 KY 28	0.4	Mine

PIKE COUNTY

	ROAD	FROM	TO	
*	US 23	0.0 Letcher CO LN	39.6	Floyd CO LN
	(Via Old US 23 at Pikeville, Does not include new cut through)			
	Weight Limit - Bridge over Shelby Creek @ milepoint 17.23			
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons			
	Weight Limit - Bridge over Little Creek @ milepoint 18.12			
	TY I = 20 tons, TY II = 34 tons, TY III = 33 tons, TY IV = 60 tons			
	Weight Limit - Bridge over Shelby Creek @ milepoint 19.75			
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons			
	Weight Limit - Bridge over C&O RR & Levisa Fork @ milepoint 22.00			
	TY I = 20 tons, TY II = 30 tons, TY III = 31 tons, TY IV = 47 tons			
*	New US 23 (Pikeville Cut Through)			
		0.0 US 23 (South)	2.7	US 23 NW of Pikeville
*	US 119	0.0 US 23 (North of Pikeville)	29.7	W. Va. State LN
	Weight Limit - Bridge over Raccoon Creek @ milepoint 6.61			
	TY I = 18 tons, TY II = 20 tons, TY III = 23 tons, TY IV = 40 tons			
	Weight Limit - Bridge over John's Creek @ milepoint 7.94			
	TY I = 20 tons, TY II = 21 tons, TY III = 24 tons, TY IV = 37 tons			
	Weight Limit - Bridge over Bent Branch @ milepoint 9.99			
	TY I = 20 tons, TY II = 35 tons, TY III = 37 tons, TY IV = 60 tons			
	Weight Limit - Bridge over Bent Branch @ milepoint 10.23			
	TY I = 13 tons, TY II = 13 tons, TY III = 13 tons, TY IV = 13 tons			
	Weight Limit - Bridge over Bent Branch @ milepoint 10.88			
	TY I = 12 tons, TY II = 12 tons, TY III = 12 tons, TY IV = 12 tons			
	Weight Limit - Bridge over Bent Branch @ milepoint 11.25			
	TY I = 20 tons, TY II = 35 tons, TY III = 36 tons, TY IV = 60 tons			
	Weight Limit - Bridge over Bent Branch @ milepoint 11.40			
	TY I = 20 tons, TY II = 20 tons, TY III = 23 tons, TY IV = 40 tons			
	Weight Limit - Bridge over Bent Branch @ milepoint 11.63			
	TY I = 11 tons, TY II = 11 tons, TY III = 11 tons, TY IV = 11 tons			
	Weight Limit - Bridge over Fork of Big Creek @ milepoint 16.41			
	TY I = 20 tons, TY II = 35 tons, TY III = 36 tons, TY IV = 60 tons			
	Weight Limit - Bridge over Big Creek @ milepoint 17.06			
	TY I = 20 tons, TY II = 23 tons, TY III = 24 tons, TY IV = 27 tons			
	Weight Limit - Bridge over Reed Fork @ milepoint 18.48			
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons			
	Weight Limit - Bridge over Big Creek @ milepoint 20.13			
	TY I = 20 tons, TY II = 24 tons, TY III = 28 tons, TY IV = 47 tons			
	Weight Limit - Bridge over Tug River @ West Virginia State Line @ milepoint 29.7			
	TY I = 20 tons, TY II = 45 tons, TY III = 45 tons, TY IV = 52 tons			
*	Old US 119	0.0 US 23 @ Ferguson Creek	2.8	US 119 West of Zebulon
*	US 460	0.0 US 23	24.0	Virginia State LN
	Weight Limit - Bridge over Levisa Fork @ milepoint 4.26			
	TY I = 20 tons, TY II = 38 tons, TY III = 39 tons, TY IV = 46 tons			

*	KY 80	0.0 US 460	6.9	Virginia State LN
	Weight Limit - Bridge over Russell Fork of Big Sandy @ milepoint 3.07			
	TY I = 20 tons, TY II = 41 tons, TY III = 42 tons, TY IV = 57 tons			
	Weight Limit - Bridge over Russell Fork & Clinchfield R.R. @ milepoint 3.60			
	TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 57 tons			
*	KY 122	3.3 Arnold Fork Road Mine	10.4	US 23
	Weight Limit - Bridge over Robinson Creek @ milepoint 6.75			
	TY I = 20 tons, TY II = 36 tons, TY III = 37 tons, TY IV = 53 tons			
	Weight Limit - Bridge over Bear Fork north of Jones Chapel @ milepoint 8.28			
	TY I = 20 tons, TY II = 36 tons, TY III = 39 tons, TY IV = 60 tons			
*	KY 194	0.0 Floyd CO LN	16.8	US 119 (South)
		16.8 US 119 (North)	27.8	Mine
	Weight Limit - Bridge over John's Creek @ milepoint 25.62			
	TY I = 20 tons, TY II = 28 tons, TY III = 30 tons, TY IV = 48 tons			
		29.6 KY 3418	40.0	KY 1499
		52.4 Prater Branch RD	55.7	KY 632 @ Phelps
		67.3 Mine	67.7	KY 2062
		69.6 KY 2059	73.2	Virginia State LN
*	KY 195	0.0 KY 197	11.6	US 460
	Weight Limit - Bridge over Brushy Branch @ milepoint 3.27			
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons			
	Weight Limit - Bridge over Wolf Pit Branch @ milepoint 9.93			
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons			
	Weight Limit - Bridge over Russell Fork @ milepoint 11.44			
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons			
*	KY 197	9.8 KY 195	16.6	KY 80
	Weight Limit - Bridge over Sycamore Creek @ milepoint 6.70			
	TY I = 20 tons, TY II = 32 tons, TY III = 38 tons, TY IV = 46 tons			
	Weight Limit - Bridge over Elkhorn Creek @ milepoint 13.91			
	TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 56 tons			
*	KY 199	8.2 KY 1056	11.6	US 119
	Weight Limit - Bridge over Pond Creek @ milepoint 8129			
	TY I = 20 tons, TY II = 39 tons, TY III = 39 tons, TY IV = 58 tons			
	Weight Limit - Bridge over Pond Creek @ milepoint 8.72			
	TY I = 20 tons, TY II = 34 tons, TY III = 35 tons, TY IV = 44 tons			
	Weight Limit - Bridge over Pond Creek @ milepoint 11.34			
	TY I = 20 tons, TY II = 41 tons, TY III = 42 tons, TY IV = 59 tons			
*	KY 292	0.0 Goody-AFLX-BURNWL RD	4.8	US 119 (South)
		4.8 US 119 (North)	12.7	Martin CO LN
*	KY 319	0.0 US 119	7.0	KY 1056 @ Ransom
	Weight Limit - Bridge over Blackberry Fork North of Hardy			
	TY I = 3 tons, TY II = 3 tons, TY III = 3 tons, TY IV = 3 tons			
*	KY 468	0.0 US 119	13.6	KY 292
*	KY 610	0.0 US 23	2.6	Myra Tipple
	Weight Limit - Bridge over Beefhide Creek @ Myra @ milepoint 1.60			
	TY I = 20 tons, TY II = 38 tons, TY III = 39 tons, TY IV = 60 tons			
		8.1 KY 1460	8.9	KY 122
*	KY 611	0.0 KY 195	3.5	Henry Clay Mine
		4.3 Little Fork-Left Fork RD	6.0	US 23
*	KY 612	0.0 KY 468	3.6	Mine
		6.6 Mine	8.4	KY 292
*	KY 632	0.0 KY 194 @ Kimper	15.0	KY 194 @ Phelps
	Weight Limit - Bridge over Johns Creek @ milepoint 1.19			
	TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 60 tons			
	Weight Limit - Bridge over Peter Creek @ milepoint 14.96			
	TY I = 20 tons, TY II = 44 tons, TY III = 46 tons, TY IV = 60 tons			
*	KY 881	0.0 US 119	3.0	Brushy Fork Road
*	KY 1056	0.0 KY 199	11.6	W.Vir. ST LN
	Weight Limit - Bridge over Blackberry Creek @ milepoint 6.52 @ Ransom			
	TY I = 20 tons, TY II = 43 tons, TY III = 45 tons, TY IV = 60 tons			
	Weight Limit - Bridge over Blackberry Creek @ Nampa			
	TY I = 20 tons, TY II = 43 tons, TY III = 45 tons, TY IV = 60 tons			
	Weight Limit - Bridge over Tug Fork Big Sandy River @ milepoint 11.5			
	TY I = 20 tons, TY II = 44 tons, TY III = 45 tons, TY IV = 53 tons			
*	KY 1373	4.8 Card Creek-Card Knob Road	6.7	US 460
*	KY 1384	0.0 US 23 @ Boldman	6.1	KY 3417
*	KY 1426	0.0 Floyd CO LN	4.9	US 23
*	KY 1441	0.0 KY 1789	3.9	Mine
		4.4 Standard Elkhorn Mine	10.1	US 119
	Weight Limit - Bridge over Pompey Creek @ milepoint 0.21			
	TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons			
	Weight Limit - Bridge over Raccoon Creek @ milepoint 4.79			
	TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 60 tons			

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

*	KY 1469	4.5	KY 3414	14.5 US 23
*	KY 1499	0.0	US 460	6.1 KY 194

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

*	KY 1758	6.8	Daugherty Tipple	7.8 KY 632
*	KY 1789	0.0	US 460	1.1 KY 1441
*	KY 2059	0.0	KY 194	0.3 Private Haul Road
		1.6	Private Haul Road	2.3 Lower Elk Creek RD
*	KY 2061	0.0	US 23	7.1 KY 194

Weight Limit - Bridge over Cowpen Creek @ milepoint 0.81
TY I = 18 tons, TY II = 19 tons, TY III = 22 tons, TY IV = 36 tons
Weight Limit - Bridge over Caney Fork of Johns Creek @ milepoint 6.72
TY I = 10 tons, TY II = 10 tons, TY III = 10 tons, TY IV = 10 tons
Weight Limit - Bridge over Johns Creek @ milepoint 7.11
TY I = 20 tons, TY II = 36 tons, TY III = 38 tons, TY IV = 60 tons

*	KY 2062	0.0	KY 194 @ Jamboree	3.1 KY 194 @ Stopover
*	KY 2552	0.0	US 23	0.3 Shelbiana RD

Weight Limit - Bridge over Shelby Creek @ milepoint 0.01
TY I = 20 tons, TY II = 31 tons, TY III = 32 tons, TY IV = 39 tons

*	KY 3154	0.0	Meathouse Branch RD	2.7 US 119
*	KY 3226	0.0	Rockhouse Creek-Greasy RD	3.3 US 460
*	KY 3227	0.0	US 23	1.0 Coal Run Tipple
*	KY 3414	2.4	Mine	3.4 KY 1469
*	KY 3415	0.0	Robinson Creek RD	2.8 KY 122

Weight Limit- Bridge over Robinson Creek @ milepoint 0.4
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
Weight Limit - Bridge over Robinson Creek @ milepoint 0.6
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons

*	KY 3416	0.0	Island Creek RD	1.7 KY 1426
*	KY 3417	0.0	KY 1426	1.1 KY 1384
*	KY 3418	7.4	Hurricane Creek RD	10.1 KY 194
*	KY 3419	4.9	KY 632	6.0 Kentucky Carbon Scales
		10.5	Mine	12.0 KY 1056

Weight Limit - Bridge over Left Fork of Blackberry Creek @ milepoint 11.47
TY I = 20 tons, TY II = 29 tons, TY III = 31 tons, TY IV = 46 tons
Weight Limit - Bridge over Blackberry Creek @ milepoint 12.01
TY I = 20 tons, TY II = 37 tons, TY III = 48 tons, TY IV = 60 tons

*	Frozen Creek Road			
	CR 5004	0.0	KY 1441	2.4 Mine
*	Winn Branch Road			
	CR 5011	0.0	US 119	1.3 Chloe Creek Dev Mine

Weight Limit - Bridge over Little Ratliff Creek
TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons

*	Varney Branch Road			
	CR 5021	0.0	KY 194 South of Deskin	0.4 Utility Tipple
*	Meathouse Fork Road			
	CR 5022	0.0	KY 194 @ Deskin	0.8 Callahan Branch-Dix Fork RD
*	Callahan Branch-Dix Fork Road			
	CR 5023	0.0	Meathouse Fork RD	1.0 Mine
*	Meathouse Branch Road			
	CR 5025	0.0	KY 3154	0.6 Mine
*	Peg Branch Road			
	CR 5043	0.0	US 119	0.6 Eastern Coal Mine
*	Goody-Aflex-Burnwell Road			
	CR 5050	0.0	KY 292	0.8 Mine
*	Bent Branch Road			
	CR 5074	0.0	KY 468	1.1 Gex Tipple

Weight Limit - Bridge over Big Creek
TY I = 18 tons, TY II = 18 tons, TY III = 20 tons, TY IV = 32 tons

*	Swinge Camp Branch Road			
	CR 5075	0.0	KY 468	0.4 H Mar/Island Mines

Weight Limit - Bridge over Big Creek
TY I = 3 ton, TY II = 3 ton, TY III = 3 ton, TY IV = 3 ton

*	Halfway Branch Road			
	CR 5077	0.0	KY 468	0.5 Island Creek Mine
*	Rockhouse Fork Road			
	CR 5078	0.0	KY 468	0.4 Island Creek Mine

Weight Limit - Bridge over Big Creek
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons

* Brushy Fork Road
CR 5095 0.0 KY 881 0.5 Addington Mine

Weight Limit - Bridge over Left Fork of Brushy Fork
TY I = 20 tons, TY II = 26 tons, TY III = 26 tons, TY IV = 26 tons

16.1 Big Branch/Meathouse Creek RD 16.8 Floyd CO LN

* Big Branch/Meathouse Creek Road
CR 5111 2.4 Mine 4.2 Brushy Fork RD

* Miller Creek Road
CR 5123 3.6 Miller Creek Tipple 5.1 KY 194

Weight Limit - Bridge over Johns Creek
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons

* Lick Branch Road
CR 5141 0.0 KY 468 0.8 Jex Big Hill Mine

* Hurricane Creek Road
CR 5162 2.5 Wellmore Mine 3.7 KY 3418

* Dicks Fork Road
CR 5163 0.0 KY 194 @ Phyliss 0.6 Big Fist #4 Mine

* Lane Branch Road
CR 5168 0.0 KY 632 1.2 McCoy Elkhorn Mine

* Hatfield Branch Road
CR 5210 0.0 KY 319 0.8 Blackberry CR Mine

* Lower Elk Creek Road
CR 5241 0.0 KY 2059 0.6 Race Fork Mine

* Prater Branch Road
CR 5253 0.0 KY 194 0.8 Majestic Mine

* Old Mouth Card-Feds Creek Road
CR 5282 0.0 US 460 0.3 Flannary Branch RD

* Flannary Branch Road
CR 5283 0.0 Old Mouth Card-Feds CR RD 0.2 Mouth Card Mines

* Card Creek-Card Knob Road
CR 5285 0.0 KY 1373 0.7 Clark Elkhorn Mine
1.6 Wellmore Mine 4.6 US 460

* Island Creek Road
CR 5287 0.0 Bane Tipple 0.6 Island Creek-Grapevine RD

* Island Creek-Grapevine Road
CR 5288 0.0 Island Creek Road 1.8 Millers CR RD

* Left Fork/Island Creek Road
CR 5289 0.0 Island Creek-Grapevine RD 0.2 Flannary Coal Mine

* Millers Creek Road
CR 5290 0.0 Island Creek-Grapevine RD 2.4 Flannary Coal Mine

* Hopkins Creek Road
CR 5322 0.0 US 460 1.0 Hopkins Creek Tipple

Weight Limit - Bridge over Levisa Fork
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons

* Daniel Branch Road
CR 5326 0.0 US 460 0.4 Mine

* Biggs Creek Road
CR 5327 0.0 US 460 1.9 Mine

* Little Fork of Harless Creek Road
CR 5329 0.0 Harless Creek RD 1.0 Mine

* Harless Creek Road
CR 5330 0.0 US 460 1.5 Wellmore Mine

* Jimmie Creek Road
CR 5341 0.0 US 460 0.6 Wellmore Mine

* Old US 460 Loop #2 Road
CR 5353 0.3 Potter Coal Mine 0.8 US 460

* Shortridge Fork Road
CR 5355 0.4 Wellmore Mine 0.9 Wellmore Private RD

* Abes Fork Road
CR 5356 0.0 Virginia State LN 0.4 Potter Prep Plant

* Ohio Street (Elkhorn City)
CR 5361T 0.0 KY 80 0.5 Potter Processing

* Old Bridge Street (Elkhorn City)
CR 5361Z 0.0 KY 80 0.1 Private Access Road

* John Moore Branch Road
CR 5363 0.0 KY 197 0.9 Federal Tipple

* Jackson Branch Road
CR 5371 0.0 KY 197 1.9 Mine

* Brushy Branch Road
CR 5379 0.0 KY 195 0.8 Ratliff Elkhorn Mine

* Marrowbone Creek Road
CR 5381 0.0 KY 195 2.1 Lad/Prospect Mine

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

* Bowling Fork Road
CR 5384 0.0 KY 195 1.7 Nats Fork RD

* Marshall Branch Road
CR 5399 0.0 US 23 0.3 Letcher CO LN
0.3 Letcher CO LN 0.8 Mine

* Little Fork/Left Fork Road
CR 5416 0.0 KY 611 0.2 Henry Clay Mine

* Rockhouse Creek/Greasy Road
CR 5422 0.0 KY 195 2.6 Mine
Weight Limit - Bridge over Marrowbone Creek
5.3 Joe Brown RD 6.3 KY 3226

* Joe Brown Road
CR 5429 0.0 Rockhouse Creek Greasy RD 0.3 Mine

* Prichard Branch Road
CR 5430 0.0 Wolfpit Branch-Gardiner Fork RD 0.5 Mine
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons

* Wolfpit Branch-Gardner Fork Road
CR 5433 5.1 Prichard Branch RD 6.3 KY 3226

* Wolfpen Branch Road
CR 5444 0.0 KY 80 0.8 Wellmore Mine

* Shelbiana Road
CR 5473 0.0 KY 2553 0.5 Coalmac Shelby Tipple

* Marion Branch Road
CR 5478 0.0 KY 1426 1.6 Chapperal Tipple

* Tollage Creek Road
CR 5496 0.0 US 23 1.0 Coal Run Mine

* Harmond Branch Road
CR 5505 0.0 US 23 0.9 Amber #9 Mine

* Dog Fork/Hurricane Creek Road
CR 5522 0.0 KY 1384 1.3 Peter Fork Joline Mine

* Hoopwood Branch Road
CR 5529 0.0 KY 1426 0.7 Stillhouse Mine

* Raccoon Branch Road
CR 5531 0.0 KY 1426 1.3 Jet/Cimaron Mine

* Island Creek Road
CR 5535 0.0 KY 1426 3.3 Mine

* Ray Branch Road
CR 5537 0.0 Island Creek RD 0.7 Mine

* Bear Fork - Tinker Fork Road
CR 5547 0.0 Bear Fork Branch RD 1.1 Floyd CO LN

* L Robinson - Floyd County Road
CR 5550 0.0 Robinson Creek RD 0.6 Floyd CO LN

* Little Fork/Robinson Road
CR 5553 0.0 KY 3415 1.6 Apache Mining Mine

* Robinson Creek Road
CR 5554 0.0 KY 3415 1.3 Mine

* Arnold Fork Road
CR 5555 0.0 KY 122 0.3 Apache Mining Mine

* Lizzie Fork Road
CR 5590 0.0 US 23 1.0 Mine
Weight Limit - Bridge over Caney Creek
TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons

* Rob Fork Road
CR 5593 0.0 US 23 0.5 Damron Fork Tipple

* Gillespie Branch Road
CR 5606 0.0 KY 3226 0.9 Mine

* Lucy Branch Road
CR 5607 0.0 KY 3226 0.3 Mine

* Sugar Camp Branch Road
CR 5611 0.0 KY 122 1.5

* Bear Fork Branch Road
CR 5616 0.0 KY 122 1.5 Bear FK-Tinker FK RD

POWELL COUNTY

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

Weight Limit - Bridge over Lulbegrud Creek @ milepoint 11.90
TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 45 tons
Weight Limit - Bridge over Red River @ milepoint 18.22
TY I = 20 tons, TY II = 37 tons, TY III = 37 tons, TY IV = 45 tons

Weight Limit - Bridge over Red River @ milepoint 24.83
TY I = 20 tons, TY II = 39 tons, TY III = 40 tons, TY IV = 50 tons
Weight Limit - Bridge over Cane Creek @ milepoint 26.12
TY I = 20 tons, TY II = 44 tons, TY III = 46 tons, TY IV = 60 tons
Weight Limit - Bridge over KY 613 @ milepoint 27.38
TY I = 20 tons, TY II = 44 tons, TY III = 46 tons, TY IV = 60 tons
Weight Limit - Bridge over North Fork Red River @ milepoint 27.94
TY I = 20 tons, TY II = 44 tons, TY III = 45 tons, TY IV = 55 tons
Weight Limit - Bridge over Middle Fork Red River @ milepoint 31.96
TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 46 tons
Weight Limit - Bridge over KY 11 & 15 @ milepoint 32.08
TY I = 20 tons, TY II = 42 tons, TY III = 43 tons, TY IV = 54 tons

*	KY 11	21.0	KY 15 @ Clay City	25.0	Montgomery CO LN
*	KY 15	3.5	KY 11	4.1	Mountain PKW (KY 402) @ KY 82

Weight Limit - Bridge over Mountain Parkway @ milepoint 4.08
TY I = 20 tons, TY II = 45 tons, TY III = 47 tons, TY IV = 60 tons

		4.1	Mountain Parkway (KY 402) @ KY 82	8.9	Clark CO LN

PULASKI COUNTY

	ROAD	FROM		TO	
*	US 27	0.0	McCreary CO LN	16.9	KY 80 Bypass

Weight Limit - Bridge over Cumberland River @ milepoint 9.19
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
Weight Limit - Bridge over Pitman Creek @ milepoint 10.06
TY I = 20 tons, TY II = 39 tons, TY III = 38 tons, TY IV = 59 tons

*	KY 80	21.6	KY 80 Bypass	40.4	Laurel CO LN

Weight Limit - Bridge over Buck Creek @ milepoint 31.55
TY I = 20 tons, TY II = 45 tons, TY III = 47 tons, TY IV = 55 tons

*	KY 80B	0.0	US 27	2.3	KY 80
*	KY 90	0.0	Wayne CO LN	4.2	US 27

Weight Limit - Bridge over Cumberland River @ milepoint 3.07
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons

*	KY 192	0.0	KY 80 Bypass	15.0	Old Whitley RD

Weight Limit - Bridge over Pitman Creek @ milepoint 4.13
TY I = 20 tons, TY II = 40 tons, TY III = 39 tons, TY IV = 58 tons
Weight Limit - Bridge over Buck Creek @ milepoint 10.57
TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 48 tons

*	KY 790	0.0	Wayne CO LN	5.7	KY 90
*	KY 1247	0.0	US 27	5.5	KY 1580

Weight Limit - Bridge over Southern RR @ milepoint 0.08
TY I = 20 tons, TY II = 40 tons, TY III = 41 tons, TY IV = 52 tons
Weight Limit - Bridge over Pitman Creek @ milepoint 3.40
TY I = 20 tons, TY II = 31 tons, TY III = 32 tons, TY IV = 52 tons

*	KY 1580	0.0	Ferguson Tipple	0.5	KY 1247
*	KY 1642	4.7	US 27	6.3	KY 1247
*	KY 1675	5.7	Acorn-Lick Creek RD	10.5	KY 80

Weight Limit - Bridge over Branch of Short Creek @ milepoint 9.48
TY I = 20 tons, TY II = 39 tons, TY III = 40 tons, TY IV = 53 tons

*	Acorn-Lick Creek Road				
	CR 5016	0.0	KY 1675	1.7	Ano RD
*	Bolthouse Ridge Road				
	CR 5017	0.0	Ano RD	0.9	Ikerd Bandy Mine
*	Ano Road				
	CR 5018	0.0	Acorn-Lick Creek RD	1.4	Bolthouse Ridge RD
*	Old Whitley Road				
	CR 5216	0.0	KY 192	3.8	Cumberland River RD
*	Cumberland River Road				
	CR 5225	0.0	Old Whitley RD	0.8	Mine
*	Bauer Road				
	CR 5232	0.0	McCreary CO LN	0.8	Mine
*	Cooper Power Plant Road				
	CR 5349	0.0	KY 1247	0.6	E KY Power Plant

ROBERTSON COUNTY

	ROAD	FROM		TO	
*	US 68	0.0	Nicholas CO LN	1.4	Fleming CO LN

ROCKCASTLE COUNTY

	ROAD	FROM		TO	
*	US 25	11.8	I-75	13.9	US 150
*	US 150	0.0	Lincoln CO LN	10.5	US 25

SHELBY COUNTY

	ROAD	FROM	TO
*	US 60	0.0 Jefferson CO LN	23.0 Franklin CO LN

Weight Limit - Bridge over L & N R.R. @ milepoint 2.64
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
Weight Limit - Bridge over Little Bullskin Creek @ milepoint 5.02
TY I = 20 tons, TY II = 21 tons, TY III = 25 tons, TY IV = 43 tons
Weight Limit - Bridge over Clear Creek @ milepoint 11.17
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
Weight Limit - Bridge over Guist Creek @ milepoint 13.93
TY I = 20 tons, TY II = 27 tons, TY III = 28 tons, TY IV = 44 tons

SIMPSON COUNTY

	ROAD	FROM	TO
*	US 31W	0.0 Warren County Line	3.2 KAEC Gasahol Plant
		(Extended weights shall be available only to TY IV vehicles with a gross weight of 90,000 pounds or less.)	
		3.2 KAEC Gasahol Plant	6.5 KY 100 in Franklin
		6.5 KY 100 in Franklin	14.0 Tennessee State LN
		(Extended weights shall be available only to TY IV vehicles with a gross weight of 90,000 pounds or less.)	

SPENCER COUNTY

	ROAD	FROM	TO
*	US 31E	0.0 Nelson CO LN	2.4 Bullitt CO LN

TODD COUNTY

	ROAD	FROM	TO
*	US 79	0.0 Tennessee State LN	10.6 Logan CO LN

Weight Limit - Bridge over L & N R.R. @ milepoint 1.94
TY I = 20 tons, TY II = 34 tons, TY III = 35 tons, TY IV = 51 tons
Weight Limit - Bridge over Elk Fork Creek @ milepoint 7.61
TY I = 20 tons, TY II = 32 tons, TY III = 34 tons, TY IV = 47 tons

UNION COUNTY

	ROAD	FROM	TO
*	US 60	1.4 KY 109	9.2 Mine

Weight Limit - Bridge over Branch of Cypress Creek @ milepoint 3.66
TY I = 20 tons, TY II = 38 tons, TY III = 39 tons, TY IV = 55 tons

*	KY 109	0.0 Webster CO LN	1.5 US 60 (West)
		1.5 US 60 (East)	4.9 KY 492
*	KY 492	1.9 Davis Mine RD	2.5 KY 109
*	KY 1508	0.0 KY 109	2.7 Pyro Dock
		5.3 Canipe Dock	6.0 Private Haul Road

Weight Limit - Bridge over Unnamed Stream @ milepoint 5.61
TY I = 20 tons, TY II = 34 tons, TY III = 36 tons, TY IV = 59 tons

*	Davis Mine Road		
	CR 5227	0.0 KY 109	0.3 Private Haul Road

WARREN COUNTY

	ROAD	FROM	TO
*	Green River Parkway		
		0.0 I-65	18.2 Butler CO LN

Weight Limit - Bridge over I-65 @ milepoint 0.01
TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 52 tons
Weight Limit - Bridge over US 31-W @ milepoint 3.57
TY I = 20 tons, TY II = 44 tons, TY III = 45 tons, TY IV = 59 tons

*	US 31W	0.0 Green River Parkway	9.0 Simpson County LN
		(Extended weights shall be available only to TY IV vehicles with a gross weight of 90,000 pounds or less.)	
*	US 68	0.0 Logan CO LN	8.2 Green River Parkway

WASHINGTON COUNTY

	ROAD	FROM	TO
*	Bluegrass Parkway		
		39.3 Nelson CO LN	44.8 Anderson CO LN

Weight Limit - Bridge over Chaplin River @ milepoint 42.08
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons

WAYNE COUNTY

	ROAD	FROM	TO
*	KY 90	0.0 Clinton CO LN	25.2 Pulaski CO LN

Weight Limit - Bridge over Beaver Creek @ milepoint 8.65
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons

Weight Limit - Bridge over Meadow Creek @ milepoint 19.51
TY I = 20 tons, TY II = 43 tons, TY III = 44 tons, TY IV = 56 tons

*	KY 776	7.5	KY 790	9.8	Brammer Hill Ridge RD
*	KY 790	1.3	KY 776	10.5	Pulaski CO LN

Weight Limit - Bridge over Sinking Creek @ milepoint 2.02
TY I = 20 tons, TY II = 30 tons, TY III = 31 tons, TY IV = 41 tons

*	Brammer Hill Ridge Road				
	CR 5023	0.0	KY 776	4.1	Jonesville Cemetery RD
*	Denny Creek Road				
	CR 5024	0.0	KY 776	1.7	Shamrock Mine
*	Brammer Hill-Delta Road				
	CR 5030	0.0	KY 790	2.2	Brammer Hill Ridge RD
*	Jones Cemetery #2 Road				
	CR 5031	0.0	Brammer Hill Ridge RD	2.4	Mine
*	Sizemore Road				
	CR 5155	0.0	Denny Creek RD	1.1	Mine

WEBSTER COUNTY

	ROAD	FROM		TO	
*	Pennyrile PKWY	48.0	Hopkins CO LN	55.6	KY 56
*	US 41	0.0	Hopkins CO LN	12.1	Henderson CO LN
*	US 41A	0.0	Hopkins CO LN	19.5	KY 56
*	KY 56	5.3	US 41A	12.5	US 41 (South)

Weight Limit - Bridge over Branch @ milepoint 12.42
TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons

		12.5	US 41 (North)	14.4	Old Eastwood Ferry RD
*	KY 109	2.9	KY 670	14.7	Union CO LN

Weight Limit - Bridge over Crab Orchard Creek @ milepoint 7.33
TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 51 tons
Weight Limit - Bridge over Caney Fork @ milepoint 10.72
TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 51 tons

*	KY 132	23.6	Mine	25.9	KY 494
*	KY 270	8.4	Mine	13.2	US 41A
*	KY 494	0.0	KY 132	2.2	US 41
*	KY 670	0.0	KY 109	2.7	US 41A
*	KY 814	0.0	Hopkins CO LN	0.6	US 41A
*	KY 1525	0.8	Mine Entrance	2.6	KY 109
*	Old Eastwood Ferry Road				
	CR 5034	0.0	KY 56	0.1	Sebree Dock
*	Quinns Landing Road				
	CR 5036	0.0	Henderson CO LN	0.2	Big Rivers Plant

WHITLEY COUNTY

	ROAD	FROM		TO	
*	US 25T	0.0	US 25W	0.7	US 25W
*	US 25W	1.7	Kensee Creek Rd	14.1	KY 26 (South)

Weight Limit - Bridge over Clear Creek @ milepoint 5.04
TY I = 20 tons, TY II = 30 tons, TY III = 32 tons, TY IV = 39 tons
Weight Limit - Bridge over Clear Fork Creek @ milepoint 6.23
TY I = 20 tons, TY II = 30 tons, TY III = 32 tons, TY IV = 39 tons
Weight Limit - Bridge over L&N RR @ milepoint 11.02
TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons

		32.1	KY 26 (North)	32.8	US 25T (South)
*	KY 6	0.8	KY 1064	1.6	Knox CO LN

Weight Limit - Bridge over Corn Creek @ milepoint 1.64
TY I = 20 tons, TY II = 29 tons, TY III = 30 tons, TY IV = 49 tons

*	KY 11	0.0	KY 92	2.6	Knox CO LN
*	KY 26	0.0	US 25W (South)	14.3	US 25W (North)
*	KY 92	0.0	McCreary CO LN	11.3	US 25W (South)

Weight Limit - Bridge over Pleasant Run @ milepoint 0.23
TY I = 20 tons, TY II = 34 tons, TY III = 36 tons, TY IV = 58 tons
Weight Limit - Bridge over Pleasant Run @ milepoint 1.51
TY I = 20 tons, TY II = 31 tons, TY III = 33 tons, TY IV = 46 tons
Weight Limit - Bridge over Jellico Creek @ milepoint 2.99
TY I = 20 tons, TY II = 25 tons, TY III = 28 tons, TY IV = 40 tons
Weight Limit - Bridge over Briar Creek @ milepoint 8.39
TY I = 14 tons, TY II = 14 tons, TY III = 14 tons, TY IV = 14 tons
Weight Limit - Bridge over I-75 @ milepoint 11.00
TY I = 20 tons, TY II = 40 tons, TY III = 39 tons, TY IV = 51 tons

		11.3	US 25W (North)	33.4	Bell CO LN

Weight Limit - Bridge over Cumberland River @ milepoint 22.02
TY I = 20 tons, TY II = 28 tons, TY III = 30 tons, TY IV = 42 tons
Weight Limit - Bridge over Golden Fork @ milepoint 26.66
TY I = 20 tons, TY II = 34 tons, TY III = 36 tons, TY IV = 50 tons

Weight Limit - Bridge over Harpes Creek @ milepoint 27.89
TY I = 20 tons, TY II = 38 tons, TY III = 38 tons, TY IV = 60 tons

*	KY 312	2.5 US 25W	2.6	Knox CO LN
*	KY 628	1.7 Mine	5.2	US 25W

Weight Limit - Bridge over Possum Creek @ milepoint 3.91
TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons
Weight Limit - Bridge over I-75 @ milepoint 4.91
TY I = 20 tons, TY II = 39 tons, TY III = 39 tons, TY IV = 48 tons

*	KY 779	6.3 KY 1064 (East)	12.7	KY 11

Weight Limit - Bridge over Cumberland River @ milepoint 11.83
TY I = 15 tons, TY II = 15 tons, TY III = 15 tons, TY IV = 15 tons

*	KY 904	0.0 KY 92 @ Suttons Mill	13.5	KY 92 @ Siler

Weight Limit - Bridge over Cumberland River @ milepoint 0.09
TY I = 15 tons, TY II = 15 tons, TY III = 15 tons, TY IV = 15 tons
Weight Limit - Bridge over Poplar Creek @ milepoint 13.44
TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 60 tons

*	KY 1064	0.0 KY 904 @ Dixie	5.1	KY 92 @ Louden

Weight Limit - Bridge over Cumberland River @ Louden
TY I = 12 tons, TY II = 12 tons, TY III = 12 tons, TY IV = 12 tons
Weight Limit - Bridge over Unnamed Stream 0.79 miles North of Louden
TY I = 10 tons, TY II = 10 tons, TY III = 10 tons, TY IV = 10 tons

		9.3 KY 779	17.1	KY 6
*	KY 1595	3.0 Mine	4.6	KY 92

Weight Limit - Bridge over Poplar Creek @ milepoint 4.49
TY I = 20 tons, TY II = 28 tons, TY III = 30 tons, TY IV = 52 tons

*	KY 1673	0.0 KY 92	0.4	McCreary CO LN
		0.4 McCreary CO LN	1.2	Ball Branch RD
*	KY 1809	0.0 KY 92	1.4	Knox CO LN

Weight Limit - Bridge over Golden Creek @ milepoint 0.21
TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 53 tons

*	Mosley Road			
	CR 5038	0.0 KY 1064	0.9	Mine
*	McNeil Hollow-Corn Creek Road			
	CR 5045	2.4 Brenda Mine	3.6	KY 1064
*	Doc Siler Road			
	CR 5223	0.0 Tennessee ST LN	0.1	Skaggs Branch RD
*	Skaggs Branch Road			
	CR 5224	0.0 Doc Siler RD	0.7	Bowlin Mine
*	Keswick-Gatliff Road			
	CR 5227	3.3 Upper Cane Creek RD	8.0	KY 904

Weight Limit - Bridge over Bennetts Branch
TY I = 20 tons, TY II = 28 tons, TY III = 33 tons, TY IV = 56 tons

*	Upper Cane Creek Road			
	CR 5230	0.0 Keswick-Gatliff RD	0.5	Mine
*	Jordan Hollow Road			
	CR 5321	0.0 KY 628 (East)	0.3	Mine
*	Kensee Creek Road			
	CR 5326	0.0 US 25W	0.8	Mine
*	Ryans Creek Road			
	CR 5335	0.0 KY 1898	4.3	McCreary CO LN
*	Ball Branch Road			
	CR 5338	0.0 KY 1673	0.6	Mine

Weight Limit - Bridge over Pleasant Run Creek
TY I = 12 tons, TY II = 12 tons, TY III = 12 tons, TY IV = 12 tons

WOLFE COUNTY

	ROAD	FROM	TO
*	Mountain PKWY (KY 402)		
		36.0 Powell CO LN	42.7 KY 155
*	KY 15	0.0 Breathitt CO LN	10.3 KY 651

Weight Limit - Bridge over Holly Creek @ milepoint 1.79
TY I = 20 tons, TY II = 45 tons, TY III = 47 tons, TY IV = 60 tons

		13.4 Mountain PKWY (KY 402)	14.0	KY 715
*	KY 15S	0.0 KY 15	1.1	Mountain PKWY (KY 402)

Weight Limit - Bridge over Mountain Parkway @ milepoint 1.05
TY I = 20 tons, TY II = 45 tons, TY III = 47 tons, TY IV = 58 tons

*	KY 651	2.0 KY 3355	2.1	KY 15
*	KY 715	2.6 KY 2016	5.8	KY 15
*	KY 2016	0.2 Mine	4.5	KY 715
*	KY 3355	0.0 KY 651	0.9	Mullins Point RD
*	Mullins Point Road			
	CR 5218	0.0 KY 3355	1.6	Mine

WOODFORD COUNTY

	ROAD	FROM	TO
*	Bluegrass Parkway		
		61.9 Anderson CO LN	71.1 US 60
*	US 60	0.0 Franklin CO LN	13.0 Fayette CO LN
*	US 60X	1.0 US 62 in Versailles	1.8 US 60 East of Versailles
*	US 62	0.1 K.U. Tyrone Power Plant	7.1 US 60X in Versailles

Weight Limit - Bridge under Southern R.R. @ Tyrone @ milepoint 0.1
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons

Section 5. No person shall operate, or knowingly cause to be operated, on any bridge listed in Section 4 of this administrative regulation any vehicle whose gross vehicle weight exceeds the weight limits specified for that bridge.

Section 6. In accordance with KRS 189.230(3), the Department of Highways shall post the gross vehicle weight limits for each bridge listed in Section 4 of this administrative regulation.

Section 7. No person shall operate, or knowingly cause to be operated, on any bridge on the extended weight coal haul road system any vehicle whose gross vehicle weight exceeds the limits specified by a notice posted pursuant to KRS 189.230(3).

Section 8. Resolutions of local governing bodies issued pursuant to KRS 177.9771(9) making recommendations to the Secretary of Transportation shall be submitted to: Secretary of Transportation, Transportation Cabinet, State Office Building, Frankfort, Kentucky 40622. The resolution shall set forth a specific description of the road or road segments under consideration. The resolution shall further set forth with specificity those conditions which give rise to inherent and definite hazards or create special conditions which the Secretary of the Transportation Cabinet needs to consider.

Section 9. A copy of the AASHTO Manual for Maintenance Inspection of Bridges, 1983 edition and 1984 and 1985 Interim Revisions is hereby incorporated by reference as part of this administrative regulation. A copy of the AASHTO Manual for Maintenance Inspection of Bridges, 1983 edition and 1984 and 1985 Interim Revisions may be viewed at the Transportation Cabinet, Department of Highways, Division of Maintenance, Frankfort, Kentucky. Copies of the AASHTO Manual for Maintenance Inspection of Bridges, 1983 edition and 1984 and 1985 Interim Revisions may be obtained from the American Association of State Highway and Transportation Officials, 444 North Capitol Street, N.W., Suite 225, Washington, D.C. 20001.

O. GILBERT NEWMAN, State Highway Commissioner
MILO D. BRYANT, Secretary
APPROVED BY AGENCY: February 26, 1991
FILED WITH LRC: March 25, 1991 at 8 a.m.

PROPOSED AMENDMENTS RECEIVED BY NOON, APRIL 15, 1991

COUNCIL ON HIGHER EDUCATION
(Proposed Amendment)

13 KAR 2:050. Tuition at state-supported institutions of higher education in Kentucky [Tuition policy].

RELATES TO: KRS 164.020(3)
STATUTORY AUTHORITY: KRS 13A.100, 164.020(3), 164.030, 164.284, 164.2841, 164.2842, 164.505, 164.515
NECESSITY AND FUNCTION: The Council on Higher Education is empowered and charged with the responsibility, pursuant to KRS 164.020(3), to determine tuition for attendance at public institutions of higher education in the Commonwealth. This regulation sets forth the current tuition policy established by the council.

Section 1. General. The Council on Higher Education sets the tuition for all students enrolled in each public institution of higher education including any individually-accredited community colleges and professional schools in Kentucky. These include Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, University of Kentucky - University System, University of Louisville, Western Kentucky University, and University of Kentucky - Community College System.

Section 2. Tuition Policy. (1) Kentucky's tuition policy shall be responsive to access and marketplace; that is, the policy shall be based in large part on tuition rates at benchmark (peer) institutions in neighboring states and shall consider the need for economic access to higher education for Kentucky residents. The council shall conduct an annual survey of doctoral, master's, community college system, and professional school (dentistry, law, and medicine) benchmarks' tuition consistent with the following tuition-setting principles:

(a) Maintain tuition levels for Kentucky residents as a reasonable percentage of per capita personal income (PCPI), with concomitant recommendations for adequate funding for need-based student financial aid [in order] to ensure [provide] economic access to higher education;

(b) Use all council-approved [appropriate] benchmark institutions as points of reference for determining tuition; [and]

(c) Differentiate tuition rates by type of institutions (individually-accredited community colleges, regional/masters degree-granting universities, and doctoral degree-granting universities); and

(d) Provide for stability of tuition rate increases from biennium to biennium (i.e., minimize fluctuations).

[(c) Effect equitable and planned movement of present tuition charges toward the objective of a reasonable percentage of Kentucky PCPI.]

(2) A resident tuition objective, expressing tuition as a percentage of PCPI, is set for each type of institution and professional school. Resident undergraduate and professional school tuition rates are expressed as a percentage of PCPI. Graduate resident tuition rates are expressed as a percentage of the undergraduate resident tuition rates. Nonresident undergraduate and graduate rates are expressed as a percentage of appropriate resident rates. Tuition rates for nonresident professional schools (medical, dental, and law) are set at the median of similar rates at benchmark institutions. [Nonresident tuition rates in the dental and law schools are determined consistently with appropriate provisions of the "Strategic Plan for Higher Education in Kentucky."]

GARY S. COX, Executive Director
APPROVED BY AGENCY: March 27, 1991
FILED WITH LRC: March 27, 1991 at 2 p.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on May 22, 1991 at 9 a.m. at the Council on Higher Education Conference Room, 1050 U.S. 127 South, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by May 17, 1991, 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: Debbie McGuffey, Associate Director for Governmental Affairs, Council on Higher Education, 1050 U.S. 127 South, Suite 101, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Debbie McGuffey
(1) Type and number of entities affected: 8 state-supported universities and 14 state-supported community colleges as follows: Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, University of Kentucky, University of Louisville, Western Kentucky University, Ashland Community College, Elizabethtown Community College, Hazard Community College, Henderson Community College, Hopkinsville Community College, Jefferson Community College, Lexington Community College, Madisonville Community College, Maysville Community College, Owensboro Community College, Paducah Community College, Prestonsburg Community College, Somerset Community College, Southeast Community College.
(a) Direct and indirect costs or savings to those affected: There will be savings for students attending Lexington Community College through the reduction of tuition rates from those charged by the University of Kentucky to those charged by individually-accredited community colleges in the University of Kentucky Community College System. This reduction will occur over a period of 4 to 6 years beginning in

the 1992/94 biennium. There may be savings for nonresident professional students by setting tuition rates at the median of similar rates at benchmark institutions.

1. First year: There will be savings for students attending Lexington Community College through the reduction of tuition rates from those charged by the University of Kentucky to those charged by other individually-accredited community colleges in the University of Kentucky Community College System. There may be savings for nonresident professional students by setting tuition rates at the median of similar rates at benchmark institutions.

2. Continuing costs or savings: There will be savings for students attending Lexington Community College through the reduction of tuition rates from those charged by the University of Kentucky to those charged by other individually-accredited community colleges in the University of Kentucky Community College System. There may be savings for nonresident professional students by setting tuition rates at the median of similar rates at benchmark institutions.

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors.

(b) Reporting and paperwork requirements: There will be no additional reporting or paperwork requirements.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: There will be no additional direct or indirect costs or savings.

1. First year: There will be no additional direct or indirect costs or savings.

2. Continuing costs or savings: There will be no additional direct or indirect costs or savings.

3. Additional factors increasing or decreasing costs: There are no additional factors.

(b) Reporting and paperwork requirements: There will be no additional reporting or paperwork requirements.

(3) Assessment of anticipated effect on state and local revenues: There is no anticipated effect on state or local revenue.

(4) Assessment of alternative methods; reasons why alternatives were rejected: This regulation amends an existing regulation which establishes guidelines for the determination of tuition rates at Kentucky public institutions of higher education. Since a regulation has existed since 1987, it was decided to continue the guidelines in regulation form.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no such statute or regulation.

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. Tiering was not applied because the guidelines will be uniformly applied to all students at all public institutions of higher education.

TEACHERS' RETIREMENT SYSTEM
(Proposed Amendment)

102 KAR 1:175. Investment policies.

RELATES TO: KRS 161.430

STATUTORY AUTHORITY: KRS 161.310, 161.430

NECESSITY AND FUNCTION: KRS 161.430 provides that the board of trustees shall have full power and responsibility for the purchase, sale, exchange, transfer, or other disposition of the investments and money [investment of the funds] of the Teachers' Retirement System. This regulation establishes investment policies and procedures to carry out these responsibilities. [requires the trustees to adopt policies governing such investment procedures and to publish these policies in a manner acceptable to the trustees.]

Section 1. (1) The board of trustees hereby appoints an investment committee consisting of the executive secretary and two (2) trustees. The trustees shall be named at the beginning of each fiscal year. The executive secretary shall act on behalf of the investment committee in administering these investment policies and procedures. To ensure timely market transactions, the executive secretary and the deputy executive secretary for investments are authorized to make purchases and sales of investment instruments without prior board approval. [shall adopt policies governing the investment of the funds of the retirement system in keeping with the provisions of KRS 161.430.]

(2) The board shall be provided quarterly reports reflecting a complete record of all investment transactions.

(3) The board places the following limits on staff employees who are delegated transaction responsibilities:

(a) The investment committee shall be provided a complete record of investment transactions and holdings on a regular basis.

(b) The staff shall maintain a file of investment directives that indicates the committee's separate review of each specific long-term investment.

(c) All "authorizations for investment" shall be approved by the executive secretary or the deputy executive secretary for investments.

Section 2. The board of trustees hereby establishes classes or categories of investment instruments that may be used in investing funds of the Teachers' Retirement System and the board specifies certain limits on the asset classes. The asset allocation parameters are structured in order to maximize return while at the same time provide a prudent diversification of assets and preserve the capital of the Teachers' Retirement System. The board is interested in assuming secure investments that will provide long-term growth to the fund. The board shall not arbitrarily compromise security in order to enhance the prospects of return. The investment committee and the board shall be mindful of the fund's liquidity and its capability at meeting both short- and long-term obligations. In this regard:

(1) There shall be no limit on the amount of investments owned by the system that are guaranteed by the United States government.

(2) Not more than thirty-five (35) percent of the assets of the system at book value shall be

invested in corporate debt obligations.

(3) Not more than forty-five (45) percent of the assets of the system at book value shall be invested in common stocks or preferred stocks. Not more than twenty-five (25) percent of the assets of the system at book value shall be invested in a stock portfolio designed to replicate a general, United States stock index.

(4) Not more than ten (10) percent of the assets of the system at book value shall be invested in real estate. This would include real estate equity, real estate lease agreements, mortgages on real estate that are not guaranteed by the United States government, and shares in real estate investment trusts.

(5) Not more than one (1) percent of the assets of the system at book value shall be invested in venture capital investments providing at least seventy-five (75) percent of such investments must be in state.

(6) Not more than ten (10) percent of the assets of the system at book value shall be invested in any additional category or categories of investments. The board shall approve by resolution such additional category or categories of investments. [The investment policies of the board shall be adopted as a formal resolution of the board and entered at length in the board minutes.]

Section 3. The parameters that govern asset allocation reflect the overriding concern by the board of trustees of preserving the capital assets of the fund, while at the same time, providing opportunities for the fund to realize a rate of growth that will surpass the rate of inflation and meet the long-term financial obligations of the Teachers' Retirement System. Investments of the system can be identified as fixed income or equity holdings. The board has established criteria for each of these broad groups.

(1) Specific guidelines associated with fixed income investments are as follows:

(a) Fixed income investments shall be direct obligations of the United States government, United States government agencies, state governments, or entities that are organized under the laws of the United States. Fixed income investments may be direct obligations of the Dominion of Canada. However, Canadian obligations shall not exceed five (5) percent of the book value of the entire portfolio. The system is prohibited from owning other foreign debt unless it is approved by the board of trustees as an additional category of investments. The system may acquire the obligations of United States corporations that are established in the United States even when substantial portions of the companies are owned by foreign interests.

(b) Fixed income investments should be rated at the time of purchase within the three (3) highest credit classifications identified by one (1) of the major rating services. Private placement debt investments are subject to the same credit qualifications as other fixed income investments.

(c) Not more than twenty-five (25) percent of any single publicly traded debt issue may be purchased as an investment unless the investment has a book value of less than $25,000,000. Private placement debt investments shall not exceed $20,000,000 in book value for each investment.

(d) Not more than five (5) percent of the assets of the system at book value shall be invested in the securities of a single issuer, except when the issuer is the United States government or its agencies.

(e) Investments in mortgages shall be first mortgages and on property within the United States unless the mortgages are guaranteed by the United States government. Returns on mortgage investments should reflect their marketability and reliability of cash flow.

(f) The management of fixed income investments will be regarded as active. When a security can be sold to the long-term benefit of the system, it will be sold. Bonds may be swapped in order to take advantage of yield spreads between various qualities of bonds or the yield curve that differentiates bond returns by maturity. On occasion securities will be sold at a loss if alternative investments would add to the value of the fund and would recoup the loss in a reasonable period of time. The board of trustees and the investment committee shall make all investments for the general enrichment and security of the fund.

(2) Specific guidelines associated with equity investments are as follows:

(a) The system shall not buy bullion, stamps, rare coins, and other collectibles. The system shall not invest in foreign currencies. If the board of trustees were to approve the purchase of foreign equity, the system would be permitted to settle security transactions in foreign cities. However, in any event, the system shall not domicile securities in foreign countries or maintain cash accounts in foreign countries.

(b) All stock investments shall be with corporations that are created under the laws of the United States or are a component of a major United States stock exchange index unless approved by the board as an additional category of investments. The system may acquire equity in United States corporations that operate in foreign countries.

(c) Due to the greater risk associated with stock ownership, stock investments should be expected to yield a higher return on investment than the highest quality bonds.

(d) The system's position in a single stock shall not exceed two (2) percent of the system's assets at book value. The system's position in a single stock shall not exceed five (5) percent of the outstanding stock for that company unless the investment is part of a venture capital program approved by the board of trustees or the investment committee.

(e) Real estate investments are judged on their total return potential. The system shall not acquire undeveloped land unless development plans are imminent.

(f) All real estate purchases that are conducted on a triple net lease basis must involve companies that at the time of the initial agreement can generate one (1) of the three (3) highest crediting ratings with a national credit rating service.

(g) On occasion, the system may sell equity at a price below its cost to the system. Although the board of trustees and the investment committee shall avoid the incurrence of losses, losses will be tolerated when alternative investments would provide a higher return and permit losses to be recouped within a reasonable period. [Policies may be deleted, changed,

amended, or otherwise altered from time to time by appropriate action of the board of trustees.]

Section 4. The investment committee evaluates the performance and services of the investment counselors. The committee through the board of trustees, employs investment counselors annually. The committee reviews the performance of counselor recommendations and compares them to anticipated performance, efforts of other counselors, and appropriate market indices. The system may utilize the services of consultants in evaluating counselors. Consultants also may be utilized in ascertaining the combined effect of several investment counselors and the overall risk levels associated with the investment portfolio. The consultants evaluate the effectiveness of investment managers in maintaining prescribed styles of investment. Periodic reports are prepared to identify and document the efforts of investment counselors. Annual reports shall be provided to the board with recommendations from the investment committee. [To inform the members of the system, and other interested persons, the board may from time to time publish its investment policies in such form and detail as it may deem desirable.]

W. D. BRUCE, JR., Chairperson
APPROVED BY AGENCY: March 18, 1991
FILED WITH LRC: April 12, 1991 at 3 p.m.
PUBLIC HEARING: A public hearing on this administrative regulation has been scheduled on May 21, 1991, at 9 a.m., EST, at the Teachers' Retirement System of Kentucky Office, 479 Versailles Road, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing. Unless written notification of intent to attend the public hearing is received by the agency at least five (5) days before the hearing date, the hearing may be cancelled. The hearing is open to the public. Any individual who attends the hearing 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. Individuals who do not wish to attend the public hearing 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: Pat N. Miller, Executive Secretary, Teachers' Retirement System of Kentucky, 479 Versailles Road, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Billy Hunt
(1) Type and number of entities affected: 67,500 active and retired members and 229 employers.
(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: None
(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:
(3) Assessment of anticipated effect on state and local revenues:
(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: 1990 General Assembly legislative changes; quadrennial review.
TIERING: Was tiering applied? Yes

TOURISM CABINET
Department of Fish and Wildlife Resources
(Proposed Amendment)

301 KAR 1:085. Mussel shell harvesting.

RELATES TO: KRS 150.025, 150.110, 150.170, 150.175, 150.190, 150.510, 150.520
STATUTORY AUTHORITY: KRS 13A.150, 150.025
NECESSITY AND FUNCTION: It is necessary to regulate the manner of taking mussels because of their [the] value and their susceptibility to [of these animals for] overharvest. This amendment is necessary to protect three (3) species of mussels designated as endangered under the Endangered Species Act. These species are the orange-footed pimple-back, Plethobasus cooperianus, the pink mucket, Lampsilis orbiculata, and the rough pigtoe, Pleurobema plenum. [close musseling in the Big South Fork National River and Recreational Area to bring this regulation into conformance with federal restrictions.]

Section 1. Conforming with KRS 150.170, all persons who actively participate in the harvesting and sale of mussels or mussel shells, whether or not they own or possess the gear being used in the harvest of mussels or mussel shells, shall have an appropriate license. Those persons having a valid mussel buyers license are authorized to sell mussels and mussel shells. No boat shall be used in musseling operations without a licensed operator in the boat.

Section 2. The mussel season is open year round in all streams and on all beds, except as specified in this section.
(1) Musseling is prohibited in the Tennessee River from Kentucky Dam downstream to river mile seventeen and eight-tenths (17.8), an area established as a mussel sanctuary.
(2) Musseling is prohibited within the stream segments 200 yards below any dam on any stream.
(3) Musseling is prohibited on the Cumberland River from Barkley Dam downstream to the U.S. Highway 62 bridge.
(4) Musseling is prohibited in all embayments on Barkley and Kentucky Lakes.
(5) Musseling is prohibited in the Ohio River between river mile 418 and river mile 419 and between river mile 966.3 and river mile 970.0 establishing these areas as mussel sanctuaries. [, an area established as a mussel sanctuary.]

(6) Musseling is prohibited on the Big South Fork of the Cumberland River and tributaries above the confluence of Koger Creek.

(7) Musseling is prohibited in the Green River from Lock and Dam #5 downstream one and three-tenths (1.3) miles to the state highway 185 bridge, an area established as a mussel sanctuary.

(8) Musseling is prohibited in the Barren River from Lock and Dam #1 downstream three and five-tenths (3.5) miles to the confluence with Mortar Branch, an area established as a mussel sanctuary.

Section 3. Musseling is permitted during the hours of 6 a.m. and 6 p.m. daily except in Barkley and Kentucky Lakes where the hours are 8 a.m. to 6 p.m.

Section 4. The statewide size limits for taking of mussels shall be as follows. All mussels smaller than these minimum sizes shall [must] immediately be returned to the water from which taken.

(1) Washboard mussels, Megalonaias gigantea, shall be large enough so as not to be able to pass through a circular ring or opening having a diameter of three and three-fourths (3 3/4) inches.

(2) Three (3) ridge mussels, Amblema plicata, shall be large enough so as not to be able to pass through a circular ring or opening having a diameter of two and three-fourths (2 3/4) inches.

(3) All other mussels, except the Asiatic clam, Corbicula sp. shall be large enough so as not to be able to pass through a circular ring or opening having a diameter of two and one-half (2 1/2) inches.

(4) The Asiatic clam, Corbicula sp., may be taken at any size.

Section 5. Mussel harvesting from the waters of the Commonwealth of Kentucky, except as provided in Section 8 of this regulation, shall be by brail only. No more than two (2) brails each sixteen (16) feet or less in length shall be simultaneously operated from any boat. More than two (2) brails may be carried aboard the boat.

Section 6. Mussel brail hooks when used shall be constructed of wire of at least fourteen (14) gauge; smaller wire is prohibited.

Section 7. Prongs of hooks shall be no longer than one and one-fourth (1 1/4) inch as measured from the tip of point to place on hook where the prongs are joined.

Section 8. The Commissioner may designate as disaster areas waters in which all live mussels have been killed, and may issue a special permit allowing the use of various harvest methods.

Section 9. No mussels designated as endangered shall be taken.

DON R. McCORMICK, Commissioner
DAVID H. GODBY, Chairman
RONALD E. GENTRY, Secretary
APPROVED BY AGENCY: April 10, 1991
FILED WITH LRC: April 10, 1991 at 3 p.m.
PUBLIC HEARING: A public hearing on this regulation will be held on Tuesday, May 28, 1991 at 10 a.m. in the meeting room of the Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Peter W. Pfeiffer, Director, Division of Fisheries, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Don R. McCormick

(1) Type and number of entities affected: Presently there are approximately 20 mussel fishermen harvesting mussels from the Ohio River, Barren River and Green River.

(a) Direct and indirect costs or savings to those affected: It is difficult to assess costs since only small segments of each river (Ohio 3.7 miles, Green 1.3 miles and Barren 3.5 miles) are being closed. However, one mussel fisherman has advised that closing the areas on Barren and Green Rivers would put him completely out of a job since these were the only areas he brailed due to accessibility and his physical handicap.

1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: No reporting or paperwork are involved.

(2) Effects on the promulgating administrative body: No additional effort will be required. Policing will be a part of ongoing routine patrol.

(a) Direct and indirect costs or savings: Very small increased costs will occur as a result of time spent apprehending violators and publication of informational brochures.

1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: Slight increase in citations and associated law enforcement reports.

(3) Assessment of anticipated effect on state and local revenues: There is no anticipated effect on budgets, funding, manpower levels or equipment needs.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Since the Kentucky Department of Fish and Wildlife Resources has a mandate to protect endangered species, there are few options. The only other option to creating mussel sanctuaries would be to provide intensive training to Division of Law Enforcement personnel working in these areas so they will be able to recognize these species with confidence. This would require intensive classroom and field instruction so the personnel will be confident in all identifications and be able to provide adequate court testimony during legal proceedings. The problem with this scenario is the endangered species would have already been harvested, and because survival of such individuals returned to the water is low; such action could continue to contribute to a decline in the numbers of these species.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no statute, administrative regulations or government policies which are in conflict, overlapping or duplication.

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? Yes

TOURISM CABINET
Department of Fish and Wildlife Resources
(Proposed Amendment)

301 KAR 2:170. Seasons for deer hunting.

RELATES TO: KRS 150.010, 150.025, 150.170, 150.175, 150.180, 150.305, 150.330, 150.340, 150.360, 150.370, 150.390, 150.395, 150.400, 150.4111, 150.415, 150.416, 150.990

STATUTORY AUTHORITY: KRS 13A.350, 150,025

NECESSITY AND FUNCTION: This regulation pertains to deer seasons in specified counties and on wildlife management areas (WMA). This regulation is necessary to set deer hunting season dates, to specify the counties and management areas open to deer hunting, to prescribe the methods by which deer may be legally taken, and to prescribe procedures by which handicapped persons may apply for exemptions from conventional hunting methods requirements. The function of this regulation is to provide for the prudent taking of deer within reasonable limits, and to insure a permanent and continuing supply of deer for present and future residents of the state. This amendment is necessary to adjust for date, weapon and tag limit changes in the deer seasons.

Section 1. Firearm [Gun] (and any other legal method) Seasons, Zones, Dates, Tags, and Legal Deer. Deer hunting is permitted in the following zones on the dates listed, using any legal method, except as specified in subsection (7) of this section and Section 4 of this regulation.

(1) Zone No. 1: open for ten (10) consecutive days beginning the second Saturday in November. The white tag is valid for any deer. The yellow tag is valid only for antlerless deer. Counties in this zone are Caldwell, Crittenden, Hopkins, Jefferson, Livingston, Logan, Oldham, Todd, Union, Webster. [Crittenden, Livingston, Logan, and Webster.]

(2) Zone No. 2: open for ten (10) consecutive days beginning the second Saturday in November. The white tag is valid for any deer on the first five (5) days and for antlered deer only on the last five (5) days of the season. The yellow tag is valid only for antlerless deer on the first five (5) days and is not valid on the last five (5) days of the season. Counties in this zone are Ballard, Boone, Breckinridge, Bullitt, Calloway, Carlisle, Christian, Fulton, Gallatin, Graves, Grayson, Hancock, Henry, Hickman, Kenton, Lyon, McCracken, Marion, Meade, Muhlenberg, Nelson, Ohio, Shelby, Spencer, Trigg, and Trimble. [Boone, Breckinridge, Bullitt, Caldwell, Carroll, Christian, Gallatin, Hancock, Hopkins, Jefferson, Kenton, Lyon, Meade, Muhlenberg, Nelson, Oldham, Shelby, Spencer, Todd, Trimble, and Union.]

(3) Zone No. 3: open for ten (10) consecutive days beginning the second Saturday in November. The white tag is valid for any deer on the first two (2) days of the season and for antlered deer only on the last eight (8) days [and for any deer on the first two (2) days of the season]. The yellow tag is valid only for antlerless deer on the first two (2) days and is not valid on the last eight (8) days of the season. Counties in this zone are Adair, Allen, Anderson, Boyle, Butler, Carroll, Casey, Daviess, Franklin, Grant, Hardin, Harrison, Henderson, Larue, McLean, Mercer, Owen, Pendleton, Scott, Taylor, Warren, Washington, and Woodford. [Allen, Anderson, Ballard, Boyle, Bracken, Butler, Calloway, Carlisle, Casey, Franklin, Fulton, Grant, Graves, Grayson, Green, Hardin, Harrison, Henderson, Henry, Hickman, Larue, McCracken, Marion, Mercer, Ohio, Owen, Pendleton, Robertson, Scott, Taylor, Trigg, Washington, and Woodford.]

(4) Zone No. 4: open for ten (10) consecutive days beginning the second Saturday in November. The white tag is valid for antlered deer only on the first nine (9) days and for any deer on the last day. The yellow tag is not valid for the first nine (9) days and is valid [only] for antlerless deer only on the last day of the season. Counties in this zone are Barren, Boyd, Bracken, Campbell, Carter, Cumberland, Edmonson, Elliott, Green, Lawrence, Marshall, Mason, Metcalfe, Monroe, Nicholas, Robertson, and Simpson. [Adair, Barren, Campbell, Cumberland, Daviess, Edmonson, McLean, Marshall, Mason, Metcalfe, Monroe, Nicholas, Simpson, and Warren.]

(5) Zone No. 5: open for ten (10) consecutive days beginning the second Saturday in November. The white tag is valid [only] for antlered deer only. The yellow tag is not valid. Counties in this zone are Bath, Clark, Clinton, Fleming, Greenup, Hart, Lincoln, McCreary, Madison, Menifee, Morgan, Pulaski, Rowan, Russell, Wayne, and Whitley. [Bath, Boyd, Carter, Clark, Clinton, Elliott, Fleming, Greenup, Hart, Lawrence, Lincoln, McCreary, Madison, Menifee, Morgan, Pulaski, Rowan, Russell, Wayne, and Whitley.]

(6) Zone No. 6: open for five (5) consecutive days beginning on the second Saturday in November. The white tag is valid for antlered deer only. The yellow tag is not valid. Counties in this zone are Bell, Bourbon, Breathitt, Clay, Fayette, Floyd east of Hwy. 23 from the Johnson County line to the Pike County Line, Garrard, Harlan, Jackson, Jessamine, Johnson, Knott, Knox, Laurel, Lee, Leslie, Letcher, Lewis, Martin, Montgomery, Owsley, Perry, Pike, Powell, Rockcastle, and Wolfe. [Bell, Bourbon, Breathitt, Clay, Fayette, Floyd, Garrard, Harlan, Jackson, Jessamine, Johnson, Knott, Laurel, Lee, Leslie, Letcher, Lewis, Martin, Montgomery, Owsley, Perry, Pike, Powell, Rockcastle, and Wolfe.]

(7) Counties, wildlife management areas, and parks closed to all deer hunting.

(a) Counties: Estill, Floyd west of Hwy. 23 from the Johnson County line to the Pike County line, [Knox,] and Magoffin.

(b) Wildlife management areas: Daviess County Gun Club in Daviess County, Ballard WMA in Ballard County (except that portion south of Terrell Landing Road), Fishtrap WMA in Pike County, Robinson Forest WMA in Breathitt, Perry, and Knott Counties, and Swan Lake WMA in Ballard County.

(c) Deer hunting is prohibited within the boundaries of all national parks.

(8) Exceptions to tag usage. Hunters using special purpose tags as antlerless deer permits issued to landowners, as specified in 301 KAR 2:210 may [shall] take only two (2) [one (1)]

antlerless deer in addition to the statewide limit, using two (2) special purpose tags. Hunters required to possess a deer permit as specified in Section 6(1) of this regulation shall have this permit in possession when hunting with a special purpose tag.

Section 2. Archery and Crossbow Seasons, Zones, Dates, Tags, and Legal Deer. Except as specified in Sections 1 and 3 of this regulation, the white tag is valid for any deer and the yellow tag is valid for antlerless deer only in Zones 1, 2, 3, 4, and 5; in Zone 6 the white tag is valid for antlered deer only and the yellow tag is not valid. [both the yellow and white tags are valid for any deer in Zones 1, 2, 3, 4, and 5; and both the yellow and white tags are valid for antlered deer only in Zone 6.]

(1) Archery season (longbows, recurve and compound bows): October 1 through January 15.

(2) Crossbow season: beginning the second Saturday in November and continuing for twenty (20) consecutive days and during the muzzle-loading seasons only.

(3) Archery and crossbow hunting during firearms seasons. Archery and crossbow equipment may be used during any gun and muzzle-loading seasons. Archery and crossbow hunters shall abide by the gun or muzzle-loading seasons regulations and tag restrictions in effect for the county or WMA in which they are hunting as specified in Sections 1, 3, 4, and 7 of this regulation. Hunters shall not possess both archery or crossbow equipment and firearms while deer hunting except during gun, WMA quota hunt and muzzle-loading seasons.

Section 3. Muzzle-loading Seasons, Zones, Dates, Tags, and Legal Deer. [Both] The white tag is valid for any deer and the yellow tag is valid for antlerless deer only [are valid for any deer] in Zones 1, 2, 3, and 4 [and 3] as specified in Section 1 of this regulation. The white tag is valid for antlered deer only in Zones 5 and 6. The yellow tag is not valid in Zones 5 and 6. [Both the white and the yellow tags are valid for antlered deer only in Zones 4 and 5. The white tag is valid for antlered deer only in Zone 6. The yellow tag is not valid in Zone 6.]

(1) Dates: two (2) consecutive days beginning the third Saturday in October and seven (7) consecutive days beginning the second Saturday in December, and during the gun season as specified in Section 1 of this regulation.

(2) [Permitted] Firearms: only those muzzle-loading firearms specified in Section 8(1) of this regulation are permitted. Hunters shall not possess breech-loading firearms while deer hunting during this period.

Section 4. Exceptions to Deer Hunting Regulations for [on] Wildlife Management Areas. All deer firearm [gun], archery and crossbow regulations apply unless otherwise specified below. When specific hunting dates are given, deer hunting shall be permitted only on those dates; otherwise, applicable dates and harvest restrictions for the zone in which the WMA occurs shall apply. Unless otherwise noted below, the muzzle-loading season shall not be in effect on these areas.

(1) Limits. An individual shall take no more than one (1) deer from each of the areas listed below except that two (2) may be taken on West Kentucky and Higginson-Henry WMA's.

(2) Advance application for quota hunts. Advance application is required for all quota hunts. Applications for quota hunts shall be made only on forms provided by the department and shall include the Social Security number [hunting license number] of the applicant, [if that applicant is required to possess a license]. No more than four (4) hunters shall apply as a party. Hunters sixteen (16) years old and older may [shall] apply to only one (1) quota hunt, and qualified juveniles (those who on the day of the hunt are at least ten (10) years old and have not reached their 16th birthday) may [shall] apply to a maximum of one (1) quota hunt and one (1) youth hunt. Multiple applications to one (1) area or applications in excess of the limits stated in this subsection shall result in disqualification. Completed applications shall be stamped, self-addressed and postmarked no later than August 31. Hunters drawn for a quota hunt on Higginson-Henry, Dewey Lake, Taylorsville Lake and Yellowbank WMA's shall not apply for a quota hunt to that same area for the following three (3) seasons.

(3) Checking in and out.

(a) Hunters drawn for quota hunts shall hunt only on assigned dates and in assigned areas, and shall check in before, and out at the completion of, the hunt. All hunters shall present their quota hunt permit [application] and show proof of identity and Social Security number when checking in. No other person shall substitute for the person whose name appears on the quota hunt permit [application]. Hunters shall also produce the signature portion of a current deer permit and will be issued a special purpose tag to place on the deer. Hunters shall take only the kind of deer specified (antlered or antlerless) if so specified on the tag. Participants in youth hunts shall also show valid hunter safety certification and shall be accompanied by an adult as specified in Section 7(1) of this regulation.

(b) All deer hunters shall [both] check in and check out for all hunts on Clay, Dewey Lake, Grayson Lake, Higginson-Henry, Kleber, Paintsville Lake, Pennyrile Forest, Redbird, Tradewater, West Kentucky, Yatesville, [and] Yellowbank WMAs, and for the Barren River WMA Youth Hunt.

(4) Hunting on private inholdings within WMAs. Owners of private lands completely surrounded by regulated WMA boundaries, and [inholdings or] their guests may hunt on these lands [inholdings] during quota hunts without following [going through] the application procedure[, but shall obey all other quota hunt rules. Private inholdings are open only during the hunts and under the regulations for the WMA in which they lie].

(5) Only persons possessing a valid quota hunt permit shall be allowed to enter a WMA during a quota hunt, except to use established public thoroughfares or other roads or areas designated open by signs, or to the extent provided by subsection (4) of this section. Other areas may be closed to hunting as indicated by signs.

(6) [(5)] Equipment permitted. On quota hunts and gun hunts any legal method (firearms, archery, or crossbow) may be used, and all hunters shall wear hunter orange as specified in Section 7(4) of this regulation. Archery hunts are limited to legal longbows, recurve bows and compound bows.

(7) Barren River WMA in Allen and Barren Counties.

(a) Quota youth hunt: any deer, first Saturday in November for two (2) consecutive days.

(b) Gun, archery and muzzleloading hunting shall conform to statewide regulations.

(8) [(6)] Beaver Creek WMA in McCreary and Pulaski Counties, and Mill Creek WMA in Jackson County.

(a) Archery hunt: antlered deer only, October 15 through the Friday preceding the second Saturday in November.

(b) Quota hunt: antlered deer only, first Saturday [and Sunday] in December for two (2) consecutive days.

[(7) Birdsville Island WMA in Livingston County.]

[(a) Quota hunt: any deer, October 20 and 27.]

[(b) Drawing: a drawing shall be announced in the news media and held in Livingston County on October 6 to select participating hunters.]

(9) [(8)] Cane Creek WMA in Laurel County.

(a) Archery hunt: antlered deer only, October 1 through the Friday preceding the second Saturday in November and the Monday following the first Sunday in December through December 31.

(b) Gun hunt: antlered deer only, second Saturday in November.

(10) [(9)] Central Kentucky WMA in Madison County.

(a) Archery hunt: any deer [antlered deer only], December 18 through January 15 [31].

(b) No firearm deer hunting allowed.

(11) [(10)] Clay WMA in Nicholas County.

(a) Archery hunt: any deer, October 15 through the Friday preceding the second Saturday in November.

(b) Quota hunt: any deer, first Saturday [and Sunday] in December for two (2) consecutive days.

(12) [(11)] Dewey Lake WMA in Floyd County.

(a) Archery hunt: antlered deer only, October 1 through the Friday preceding the second Saturday in November and the Monday following the quota hunt through December 31 except during the youth quota hunt.

(b) Quota hunt: antlered deer only, first Saturday [and Sunday] in December for two (2) consecutive days.

(c) Youth quota hunt: any deer, first Saturday [and Sunday] in November for two (2) consecutive days.

(13) [(12)] Grayson Lake WMA in Carter and Elliott Counties.

(a) Youth quota hunt: any deer, first Saturday [and Sunday] in November for two (2) consecutive days. [,] Only on that portion west of Route 1496, and east of the line delineated by the following: Bruin Creek, the Bruin Creek fork of Grayson Lake, and Grayson Lake north of the Bruin Creek Fork. [north of Route 1496, east of the Little Sandy River and on the Bruin Creek portions of the area.] This is the only firearm deer hunting permitted on the area.

(b) Archery and crossbow hunt: any deer, except on the portion west of Route 1496, and east of the line delineated by the following: Bruin Creek, the Bruin Creek fork of Grayson Lake, and Grayson Lake north of the Bruin Creek Fork. [north of Route 1496, east of the Little Sandy River and on the Bruin Creek section,] October 1 through December 31.

(14) [(13)] Higginson-Henry WMA in Union County.

(a) Quota hunt for deer as specified on permit, first Saturday [and Sunday] in December for two (2) consecutive days [November].

(b) Archery hunt: from [during the period] October 1 through 15 hunters may only hunt with a special purpose tag valid only during these dates. Only one (1) antlerless deer may be taken during this period. Any [One (1)] deer [of either sex] may be taken with the white tag, or an antlerless deer may be taken with the yellow tag [or yellow deer tag] during the period October 16 through December 31, except during the quota hunt.

(15) [(14)] Kleber WMA in Owen and Franklin Counties.

(a) Quota hunt: any deer, first Saturday [and Sunday] in December for two (2) consecutive days.

(b) Archery hunt: any deer, third Saturday in October through December 31, except during the quota hunt.

(16) [(15)] Paintsville Lake WMA in Morgan and Johnson Counties.

(a) Quota hunt: antlered deer only, first Saturday [and Sunday] in December for two (2) consecutive days.

(b) Archery hunt: antlered deer only October 1 through the Friday preceding the second Saturday in November and the Monday following the quota hunt through December 31.

(17) [(16)] Peabody and White City WMA's in Hopkins, Muhlenberg and Ohio Counties.

(a) Archery hunt: October 1 through December 31. Advance application required for all tracts except White City WMA.

(b) Quota hunt 1: the second Saturday in November through the following Wednesday.

(c) Quota hunt 2: the Thursday following the second Saturday in November through the following Monday.

(d) Muzzleloader hunts: two (2) consecutive days beginning the third Saturday in October and seven (7) consecutive days beginning the second Saturday in December. Advance applications required for all tracts except White City.

(e) [(d)] Limits: one (1) deer. [The white tag is valid for any deer and the yellow tag is valid only for antlerless deer.]

(f) [(e)] All hunters, except White City archery and muzzleloader hunters, shall apply in advance on the standard application form and have the validated portion of this form in their possession while hunting. Archery and muzzleloader hunters on Peabody Tracts, [shall not be selected by a drawing and] may apply to hunt through December 1.

(18) [(17)] Pennyrile WMA in Caldwell, Christian, and Hopkins Counties, and Tradewater WMA in Hopkins County. [All deer hunting shall conform to Zone 4 regulations.]

(a) Quota hunt: the first Saturday in December for two (2) consecutive days.

(b) Limits: one (1) antlered deer only.

(19) [(18)] Pioneer Weapons WMA in Bath and Menifee Counties.

(a) Legal muzzle-loading firearms only; crossbows may be used during the entire archery season.

[(b) Checking in or out is not required. All deer taken shall be checked in accordance with Section 6(3) of this regulation.]

(b) [(c)] Hunting is permitted during the muzzle-loading season as specified in Section 3 of this regulation.

(20) [(19)] Redbird WMA in Clay and Leslie Counties.

(a) Archery hunt: antlered deer only, October 1 through the Friday preceding the second

Saturday in November and the Monday following the first Sunday in December through December 31.

(b) Gun hunt: antlered deer only, second Saturday in November.

(21) [(20)] Taylorsville Lake WMA in Anderson and Spencer Counties.

(a) Archery hunt: any deer, October 1 through December 31, except during the quota hunt.

(b) Quota gun hunt: any deer, first Saturday [and Sunday] in November for two (2) consecutive days.

[(21) Tradewater WMA in Hopkins County: all deer hunting shall conform to Zone 4 regulations.]

(22) West Kentucky WMA in McCracken County.

(a) Archery hunts: any deer, October 1 through 31 [November 1], November 4 [5] through 14 [15], November 18 [19] through 22 [20], December 9 [10] through 12 and December 17 through January 15 [13] on all tracts except posted zones [and December 17 through December 31 on tracts 5 and 6 only].

(b) [Archery hunts on] Posted zones: designated posted zones shall be opened to archery hunts on December 16 through January 15 [November 19 and 20 and December 10 through 13].

(c) Quota hunt 1: any deer, third Saturday [and Sunday] in November for two (2) consecutive days.

(d) Quota hunt 2: any deer, second [third] Saturday [and Sunday] in December for two (2) consecutive days.

(e) Youth quota hunt: any deer, first Saturday [and Sunday] in November for two (2) consecutive days.

(f) All gun hunters are limited to muzzle- or breech-loading shotguns only.

(g) No firearms permitted on any posted zone at any time.

(h) Crossbow hunt: beginning October 26 and continuing for eight (8) consecutive days.

(i) Limits: two (2) deer, one (1) of which shall be antlerless and tagged with the yellow tag, the other deer may be antlered or antlerless and tagged with a special purpose tag issued on the area. Only one (1) special purpose tag shall be issued to an individual. A bow hunter who has taken a deer on this WMA with a special purpose tag shall not hunt in the quota hunt.

(23) Yellowbank WMA in Breckinridge County.

(a) Quota hunt: any deer, first Saturday [and Sunday] in November for two (2) consecutive days.

(b) Archery hunt: antlered deer only October 1 through 14 and any deer, October 15 through December 31, except during the quota hunt.

Section 5. Legal Deer, Taking of Other Species, Hunting Hours and Bag Limits. (1) An antlered deer is defined as having one (1) antler at least four (4) inches in length, measured from the skin to the tip of the antler.

(2) Hunting is permitted during daylight hours only.

(3) The limit is two (2) deer per hunter per year, except that deer may be taken in addition to the limit with the special purpose tag as provided by this and other regulations.

(4) The taking of coyotes and wild hogs from November 1 through the gun, archery and special muzzle-loader season is permitted by deer hunters possessing a valid deer tag as specified in Sections 1, 2 and 3 of this regulation, and using legal weapons as specified in Sections 7 and 8 of this regulation. Any wild hog taken shall be reported to an official deer check station and the carcass presented for examination.

Section 6. Hunting License, Deer Permits, Deer Tags and Check Station Requirements. (1) Hunting license and deer permits. All deer hunters, except those exempted by KRS 150.170 shall possess a valid annual Kentucky hunting license and a valid deer permit. Hunters not eligible to purchase a junior hunting license shall purchase the two (2) tag permit. Hunters eligible to purchase a junior hunting license may purchase either the junior deer permit or the two (2) tag permit. The junior permit may be used in place of either the white or yellow tag.

(2) Leaving head attached. Any person possessing a deer shall leave the head attached to the body until the carcass is removed from the field and checked in.

(3) Mandatory deer check stations. Any person taking a deer during any deer hunting season shall present the entire or field dressed carcass to have it checked at the deer check station nearest to where the deer was taken, or by the nearest available conservation officer, no later than 9 a.m. on the day following the day taken. The person taking the deer shall check it in personally. The hunter shall fill out an official game check card and submit it to the check station operator or conservation officer. The hunter's portion of this card shall be retained in the hunter's possession until the deer is taken to the processor. Parts separated for taxidermy shall be accompanied by the taxidermy portion of the game check card as specified in subsection (4)(c) of this section.

(4) Tagging deer carcass and head.

(a) Immediately after taking a deer and before moving the carcass, the hunter shall attach his or her [a] valid, adhesive backed, paper tag portion of the deer permit or special purpose tag to the deer. This tag shall be attached so that it cannot be removed without destroying the tag or mutilating the carcass and shall remain attached until the carcass is processed and packaged. Before moving any harvested deer from their property or allowing it out of their possession, hunters who are not required to possess a deer permit under the provisions of subsection (1) of this section shall attach to the deer a card or tag containing the following information: name of owner, address, date killed and location killed.

(b) Deer taken in Kentucky shall not be transported outside state boundaries unless they have been checked in at an official check station. Proof of legal harvest shall accompany any deer or parts of deer transported into Kentucky. Any deer entered in the trophy deer list shall be taken legally and within the boundaries of the state.

(c) Heads or other parts from deer taken in Kentucky separated from the carcass for mounting by a taxidermist shall have the taxidermy portion of the official game check card properly filled out and attached to the separated part.

(d) Deer hides may be sold to licensed fur buyers and licensed fur processors.

(e) All individuals, lockers, and [processing] plants that process deer shall keep accurate records of name of hunter, address, and date received for deer in their possession [facility]. Each deer shall have a tag stating the above information.

Section 7. Requirements for Deer Hunting. (1) Persons under sixteen (16) years of age shall not hunt deer with a gun unless accompanied by an adult who shall be able to seize immediate control of the juvenile's hunting weapon.

(2) Deer shall not be taken with the aid of dogs or any domestic animal, or by the use of a boat or any type of vehicle.

(3) A deer shall not be taken while the deer is swimming.

(4) Hunter orange garments shall be worn by all deer hunters during any deer firearms season permitted by regulation. Garments shall be worn as outer coverings on at least the head, chest and back. They shall be of a solid, unbroken pattern. Any mesh weave opening shall not exceed one-fourth (1/4) inch by any measurement. Garments may display a small section of another color provided the section does not significantly obscure the hunter orange color of the garment. Camouflage pattern hunter orange garments do not meet these requirements.

[(4) All persons hunting deer during any season or hunt where firearms are permitted shall wear a hat or cap and vest of a solid, unbroken hunter orange color. Required garments shall not be camouflage orange or fishnet type material. A hunter orange coat or coveralls may be substituted for the vest. The hat or cap, and vest, coat, or coveralls shall be worn as outer garments on both the head and upper torso (chest and back). A small patch, logo, pocket, shell holder, hat rim, and/or pads (shoulder and/or elbow) shall be permitted on any of these garments so long as they do not significantly obscure the hunter orange color.]

(5) On department owned or operated wildlife management areas, Westvaco Public Hunting Area, the Daniel Boone National Forest, Reelfoot National Waterfowl Refuge and the Big South Fork National River and Recreation Area, the use of any nails, spikes, screw-in devices, wire or tree climbers is prohibited for attaching tree stands or for climbing trees. Only portable tree stands and climbing devices that do not injure trees may be used. Portable stands shall not be placed in trees more than two (2) weeks before opening day of each hunting period and shall be removed within one (1) week following the last day of each hunting period. All portable tree stands shall be marked with the owner's name and address. Existing permanent tree stands shall not be used.

(6) Rattling of antlers or sticks and the use of hand or mouth operated calls are permitted.

(7) No person shall possess a deer taken contrary to this or any other regulation or statute.

Section 8. Firearms and Ammunition Restrictions for Gun Deer Hunting. (1) Permitted: center-fire rifles; muzzle-loading rifles of .40 caliber or larger; and muzzle-loading or breech-loading shotguns of ten (10) gauge maximum and twenty (20) gauge minimum firing a single projectile; handguns with [barrel lengths of 3.9 inches and] a minimum caliber of .30 [with a cartridge case length of not less than one and one-fourth (1 1/4) inch]. Legal handgun cartridges may be used in rifles and legal rifle cartridges may be used in handguns. Muzzle-loading pistols shall be .44 caliber or larger.

(2) Prohibited: any caliber or cartridge that does not meet the requirements given in subsection (1) of this section; any fully automatic weapon or weapon capable of firing more than one (1) round with one (1) trigger pull; semiautomatic and pump rifles or shotguns a magazine capacity exceeding ten (10) rounds fully jacketed ammunition tracer bullet ammunition; buckshot or any type of shot shells.

Section 9. Equipment Restrictions for Archery Deer Hunting. (1) Longbows, recurve and compound bows shall not be fitted with any device capable of holding an arrow at full draw without aid from the hunter.

(2) Arrows shall be barbless without chemical treatment or chemical attachments, with broadhead points at least seven-eighths (7/8) inch wide.

(3) Crossbows shall have a minimum pull weight of 100 pounds and a working safety device. Minimum bolt weight is 380 grains with a barbless broadhead point at least seven-eighths (7/8) inch wide with no chemical treatments or chemical attachments.

Section 10. Hunting Methods Exemptions for Handicapped Hunters. Persons with physical handicaps that would make it impossible for them to hunt by conventional methods may apply by letter to the commissioner of the department for a hunting methods exemption. The commissioner may authorize any reasonable exception that would permit a handicapped person to hunt when he or she could not otherwise do so because of his or her handicap. Specific exemptions to be allowed shall be described in the letter of authorization, which shall be signed by the commissioner and a conservation officer who shall certify that the applicant for the exemption is, in his opinion, handicapped to such a degree that the requested exemption is necessary to permit the applicant to hunt. Hunting method exemptions will expire at the end of the license year.

DON R. McCORMICK, Commissioner
DAVID H. GODBY, Chairman
RONALD E. GENTRY, Secretary
APPROVED BY AGENCY: April 10, 1991
FILED WITH LRC: April 10, 1991 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on May 24, 1991 at 9 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by May 19, 1991, five days prior to hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Mr. Lauren E. Schaaf, Director of Wildlife, Department of Fish and Wildlife Resources, Arnold L. Mitchell

Building, #1 Game Farm Road, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Don R. McCormick

(1) Type and number of entities affected: An estimated 211,000 persons will participate in the white-tailed deer hunting proposed by this regulation.

(a) Direct and indirect costs or savings to those affected: These costs involve the purchase of a state hunting license and a deer permit. Indirect costs are determined by the individual hunter, depending on his level of participation.

1. First year: Persons participating in the hunting proposed for authorization by this regulation would be required to possess a valid hunting license ($8.50 for residents) and a deer permit ($17.50) unless exempt by regulations.

2. Continuing costs or savings: Same as first year.

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

(b) Reporting and paperwork requirements: Deer hunters will be asked to check their deer at a county deer check station and fill out a game check card denoting specific information about the deer.

(2) Effects on the promulgating administrative body: Requires time and effort in developing, publishing, reporting on, and enforcing the proposed regulation.

(a) Direct and indirect costs or savings: Primary costs are associated with enforcement of the regulation.

1. First year: The estimated cost associated with establishing and carrying out the provisions of this regulation is $1,000,000.

2. Continuing costs or savings: Same as first year.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: Approximately 211,000 deer hunters may be expected to expend money for equipment, transportation, food and lodging. The annual expenditure for these items averages $25 per day of hunting according to the 1980 National Hunting and Fishing Survey. State and local revenues can be expected to be positively affected due to the necessary expenditures for the required licenses and taxes levied upon items purchased by hunters.

(4) Assessment of alternative methods; reasons why alternatives were rejected: The only alternative to regulated hunting is closure of the season. This alternative was rejected as contrary to the conservation ethic which is based on the wise use of renewable resources and the fact that white-tailed deer populations are at levels which can sustain a regulated harvest by Kentucky sportsmen.

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

(a) Necessity of proposed regulation if in conflict: N/A

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

(6) Any additional information or comments: None

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. Only parts of local government will be affected.

3. State the aspect or service of local government to which this administrative regulation relates. The County Clerk's office serves as a distribution system for the hunting licenses required by this regulation. The District Courts are where violators of these regulations are prosecuted.

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: The County Clerk's office personnel are involved in the sale of hunting licenses and deer tags. This office receives a $.50/license fee for selling the licenses. The District Courts are utilized for prosecution of cases made against violators of these regulations and recover their costs as the court cost portion of any levied fines.

TOURISM CABINET
Department of Fish and Wildlife Resources
(Proposed Amendment)

301 KAR 2:210. Antlerless deer permits.

RELATES TO: KRS 150.010, 150.025, 150.105, 150.170, 150.175, 150.305, 150.330, 150.340, 150.360, 150.370, 150.390, 150.395, 150.990

STATUTORY AUTHORITY: KRS 13A.350, 150.025

NECESSITY AND FUNCTION: This regulation pertains to the taking of antlerless deer during deer gun seasons where established county deer hunting seasons are inadequate to control localized agricultural damage caused by deer. Its purpose is to provide a means of alleviating localized agricultural damage until such time as it is appropriate to apply deer herd stabilization or reduction measures on a county wide basis. The function of this regulation is to prescribe the conditions and procedures under which antlerless deer may be taken for this purpose. This amendment is necessary to allow for the use of special purpose deer tags as antlerless deer permits.

Section 1. Antlerless Deer Permit Application, Issuance and Validity. (1) Landowners or their agents may apply for antlerless deer permits by contacting a [their local] conservation officer and completing an antlerless deer permit application form.

(2) Applications for permits to be issued in the current year shall be submitted no later than September 30. Applications submitted after

September 30 shall be considered but permits may not be issued until the following year.

(3) The conservation officer shall forward completed applications and his recommendations to the Division of Wildlife for consideration.

(4) The Division of Wildlife shall determine the number of permits to be issued for any one (1) landholding through consideration of the extent of damage, the size of the landholding, the number of deer necessary to be removed to alleviate further damage, and the adequacy of the county deer season to address the problem. Permits shall not be issued in instances where the county deer season is adequate to achieve the desired reduction in deer numbers.

(5) Permits shall be issued only to a landowner or his agent.

(6) Landowners or their agents may transfer the permits they have been issued to persons of their choice.

(7) Permits are valid for use only on the landholding for which they were issued.

(8) Permits are valid only during the season for [in] which they were issued.

Section 2. Requirements for Landowners or Their Agents to Whom Antlerless Deer Permits have been Issued. (1) Landowners or their agents shall have the hunter sign the permit prior to transferring the permit to a hunter.

(2) Landowners or their agents shall return all unused permits to the Division of Wildlife within ten (10) days of the close of the deer [gun] season.

(3) Failure to comply with the requirements of this section, conviction for a deer regulation violation, or other abuse of the antlerless permit program shall be grounds for permit revocation and future ineligibility.

(4) Appeals of a revocation or a denial of eligibility shall be submitted in writing to the commissioner within sixty (60) days of any such action. Any adverse decision of the commissioner may be appealed to the commission in writing within sixty (60) days of the adverse decision of the commissioner and it shall be heard at the next regularly scheduled meeting.

Section 3. Requirements for Using Special Purpose Tags as Antlerless Deer Permits [Hunters Taking Antlerless Deer Under a Special Purpose Tag Used as an Antlerless Deer Permit]. (1) Hunters shall comply with all current deer season regulations, including the deer bag and possession limit, except that two (2) [only one (1)] antlerless deer per hunter may be taken with two (2) [a] special purpose tags in addition to the statewide limit.

(2) Before moving the carcass, hunters shall attach the adhesive backed special purpose tag to the deer in such a manner that it cannot be removed without destroying the tag or mutilating the deer.

(3) Hunters shall check their deer in accordance with deer season regulations.

(4) Special purpose tags shall only be used for antlerless deer.

(5) [(4)] Hunters who take an antlered deer while in possession of a special purpose tag shall not [are not required to] affix the special purpose tag to the deer, but shall affix the [yellow or the] white state tag to the deer according to the provisions of 301 KAR 2:170.

(6) [(5)] Unsigned special purpose tags are not valid.

DON R. McCORMICK, Commissioner
DAVID H. GODBY, Chairman
RONALD E. GENTRY, Secretary

APPROVED BY AGENCY: April 10, 1991
FILED WITH LRC: April 10, 1991 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on May 24, 1991 at 1 p.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by May 19, 1991, five days prior to hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Mr. Lauren E. Schaaf, Director of Wildlife, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Don R. McCormick

(1) Type and number of entities affected: An estimated 211,000 persons will participate in the white-tailed deer hunting proposd by this regulation. An estimated 94,000 landowners actively engaged in farming may also be affected.

(a) Direct and indirect costs or savings to those affected: These costs involve the purchase of a state hunting license and a deer permit. Indirect costs are determined by the individual hunter, depending on his level of participation.

1. First year: Persons participating in the hunting proposed for authorization by this regulation would be required to possess a valid hunting license ($8.50 for residents) and a deer permit ($17.50) unless exempt by regulations.

2. Continuing costs or savings: Same as first year.

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

(b) Reporting and paperwork requirements: Deer hunters will be asked to check their deer at a county deer check station and fill out a game check card denoting specific information about the deer.

(2) Effects on the promulgating administrative body: Requires time and effort in developing, publishing, reporting on, and enforcing the proposed regulation.

(a) Direct and indirect costs or savings: Primary costs are associated with enforcement of the regulation.

1. First year: The estimated cost associated with establishing and carrying out the provisions of this regulation is $500,000.

2. Continuing costs or savings: Same as first year.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: Approximately 211,000 deer hunters may be expected to expend money for equipment, transportation, food and lodging. The annual expenditure for these items averages $25 per day of hunting according to the 1980 National Hunting and Fishing Survey. State and local revenues can be expected to be positively affected due to the necessary expenditures for the required licenses and taxes levied upon items purchased by hunters.

(4) Assessment of alternative methods; reasons why alternatives were rejected: The only alternative to regulated hunting is closure of the season. This alternative was rejected as contrary to the conservation ethic which is based on the wise use of renewable resources and the fact that white-tailed deer populations are at levels which can sustain a regulated harvest by Kentucky sportsmen.

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

(a) Necessity of proposed regulation if in conflict: N/A

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

(6) Any additional information or comments: None

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. Only parts of local government will be affected.

3. State the aspect or service of local government to which this administrative regulation relates. The County Clerk's office serves as a distribution system for the hunting licenses required by this regulation. The District Courts are where violators of these regulations are prosecuted.

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: The County Clerk's office personnel are involved in the sale of hunting licenses and deer tags. This office receives a $.75 fee for selling licenses and deer tags. The District Courts are utilized for prosecution of cases made against violators of these regulations and recover their costs as the court cost portion of any levied fines.

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

401 KAR 30:010. Definitions for Title 401 KAR Chapters 30 through 49.

RELATES TO: KRS 224.033, 224.830 through 224.888, 224.994, 40 CFR Part 260.11, 40 CFR Part 261 Appendix X, 40 CFR Part 268 Appendix I

STATUTORY AUTHORITY: KRS Chapter 13A, 224.033, 40 CFR Part 260.11, 40 CFR Part 261 Appendix X, 40 CFR Part 268 Appendix I

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

Section 1. Definitions. Unless otherwise specifically defined in KRS Chapter 224 or otherwise clearly indicated by their context, terms in KRS Chapter 224 and in the waste management regulations shall have the meanings given in this regulation.

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

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

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

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

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

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

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

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

(9) "Agricultural waste" means any nonhazardous waste resulting from the production

and processing of on-the-farm agricultural products, including manures, prunings and crop residues.

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

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

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

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

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

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

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

(d) "Administrative application" means the standard forms and format used for applying for a solid waste site or facility permit as specified in 401 KAR 47:160 and 401 KAR 47:180.

(e) "Technical application" means the standard format for applying for a solid waste site or facility permit as specified in 401 KAR 47:160 and 401 KAR 47:190.

(14) "Aquifer" means a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of groundwater to wells or springs.

(15) "Attenuation" means any decrease in the maximum concentration or total quantity of an applied chemical or biological constituent in a fixed time or distance traveled resulting from a physical, chemical, and/or biological reaction or transformation occurring in the zone of aeration or zone of saturation.

(16) "Authorized representative" means the person responsible for the overall operation of a facility or an operational unit (i.e., part of a facility), e.g., the plant manager, superintendent or person of equivalent responsibility.

(17) "Base flood" means a flood that has a one (1) percent or greater chance of recurring in any year or a flood of a magnitude equaled or exceeded once in 100 years on the average over a significantly long period.

(18) "Bird hazard" means an increase in the likelihood of bird/aircraft collisions that may cause damage to the aircraft or injury to its occupants.

(19) "Board" means the Kentucky regional integrated waste treatment and disposal facility siting board (KRS 224.2201).

(20) "Boiler" see "hazardous waste site or facility-boiler."

(21) "By-product" see Section 1 of 401 KAR 31:010.

(22) "Cabinet" shall have the meaning specified in KRS 224.005 [means the Natural Resources and Environmental Protection Cabinet (KRS 224.005)].

(23) "Cation exchange capacity" means the sum of exchangeable cations a soil can absorb expressed in milliequivalents per 100 grams of soil as determined by sampling the soil to the depth of cultivation or solid waste placement, whichever is greater, and analyzing by the summation method for distinctly acid soils or the sodium acetate method for neutral, calcareous or saline soils.

(24) "Cell" means a portion of a landfill or a sanitary landfill which is isolated, usually by means of an approved barrier.

(25) "Certificate" means a certificate of environmental safety and public necessity (KRS 224.2201).

(26) "Certification" means a statement of professional opinion based upon knowledge and belief.

(27) "Closed portion" means that portion of a facility which an owner or operator has closed in accordance with the approved facility closure plan and all applicable closure requirements.

(28) "Closed unit" means any solid waste unit that no longer receives solid waste as of the effective date of this regulation and has received all required final layers of cover material.

(29) "Closure" shall have the meaning specified in KRS 224.005 [means the time at which a waste treatment, storage or disposal facility permanently ceases to accept wastes, and includes those actions taken by the owner or operator of the facility to prepare the site for postclosure monitoring and maintenance or to make it suitable for other uses (KRS 224.005)].

(30) "Closure care" means the routine care, maintenance, monitoring and any required corrective action of a solid waste disposal site following certification of closure until the applicable requirements in Section 13 of 401 KAR 48:090, Section 15 of 401 KAR 48:070 and Section 3 of 401 KAR 48:170 are met.

(31) "Coal mining solid waste" means solid waste as defined by KRS 224.005 which is generated at, and is incidental to, a coal exploration operation or surface mining and reclamation operation regulated under KRS Chapter 350, and shall not include wastes generated by households, communities, cities, counties, or any person or business other than those regulated under KRS Chapter 350.

(32) "Coal mining waste" means earth materials which are combustible, physically unstable, or acid-forming or toxic-forming, that are generated during and incidental to the mining and extraction of coal and to the washing and crushing of coal. The term does not include used oil, paints or flammable liquids. The term includes the following:

(a) Refuse which is that waste material in the raw coal which it is the object of cleaning to remove;

(b) Overburden which includes all of the earth and other geologic materials, excluding topsoil, which lie above a natural deposit of coal and also means such earth and other material after removal from their natural state in the process of mining; and

(c) Coal mining by-products which include any material that is not one (1) of the primary products of a particular coal mining operation, is a secondary and incidental product of the particular operation and would not be solely and separately mined by the particular operation. The term does not include an intermediate mining product which results from one (1) of the steps in a mining process and is processed through the next step of the process within a short time. An example of a coal mining by-product is that part of the ore deposit that is too low in grade to be of economic value at the time, but which is stored separately in the hope that it can be profitably treated later.

(33) "Commercial solid waste" shall have the meaning specified in KRS 224.005 [means all types of solid waste generated by stores, offices, restaurants, warehouses, and other nonmanufacturing activities, excluding household and industrial wastes].

(34) "Component" see "hazardous waste management unit-hazardous waste tanks-component" or "solid waste site or facility-tank-component."

(35) "Confined aquifer" means an aquifer bounded above and below by impermeable beds or by beds of distinctly lower permeability than that of the aquifer itself; an aquifer containing confined groundwater.

(36) "Constituent" or "hazardous waste constituent" means a constituent which caused the cabinet to list the hazardous waste in 401 KAR 31:040, or a constituent listed in Section 5(3) of 401 KAR 31:030.

(37) "Construction/demolition debris landfill" see "solid waste site or facility-construction/demolition debris landfill."

(38) "Construction/demolition waste" see "solid waste site or facility."

(39) "Construction materials" means nonhazardous nonsoluble material, including but not limited to steel, concrete, brick, asphalt roofing material, or lumber from a construction or demolition project. Mixture of construction and demolition debris with any amount of other types of waste may cause it to be classified as other than construction materials.

(40) "Contained landfill" see "solid waste site or facility - contained landfill."

(41) "Container" means any portable enclosure in which a material is stored, transported, treated, disposed, or otherwise handled.

(42) "Contaminate" means introduce a substance that would cause:

(a) The concentration of that substance in the groundwater to exceed the maximum contaminant level specified in Sections 5 and 6 of 401 KAR 47:030 or 401 KAR 34:060, Section 8.

(b) An increase in the concentration of that substance in the groundwater where the existing concentration of that substance exceeds the maximum contaminant level specified in 401 KAR 47:030 or 401 KAR 34:060, Section 8.

(43) "Contamination" means the degradation of naturally occurring water, air, or soil quality either directly or indirectly as a result of human activities.

(44) "Contingency plan" means a document setting out an organized, planned, and coordinated course of action to be followed in the event of a fire, explosion or release of waste or waste constituents into the environment which has the potential for endangering human health and the environment. Financial planning to identify resources for initiation of such action is a part of contingency plan development.

(45) "Corrosion expert" means a person who by reason of his knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks documented by credentials submitted to the cabinet. Such a person must be certified as being qualified by the National Association of Corrosion Engineers (NACE) or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control on buried or submerged metal piping systems and metal tanks.

(46) "Cover material" means soil or other suitable material that is spread and compacted on the top and side slopes of disposed waste in order to control disease vectors, gases, erosion, fires, and infiltration of precipitation or run-on; support vegetation; provide trafficability; or assure an aesthetic appearance.

(47) "Designated facility" means a hazardous waste treatment, storage, or disposal facility which has received a hazardous waste site or facility permit (or a facility with interim status) in accordance with the requirements of 401 KAR Chapter 38, a permit from a state authorized in accordance with 40 CFR Part 271, and EPA permit (or a facility with interim status) in accordance with 40 CFR Parts 270 and 124, or that is regulated under Section 6(3)(b) of 401 KAR 31:010 or 401 KAR Chapter 36, 40 CFR 261.6(c)(2) or 40 CFR Part 266, and that has been designated on the manifest by the generator pursuant to Section 1 of 401 KAR 32:020.

(48) "Destruction or adverse modification" means a direct or indirect alteration of critical habitat which appreciably diminishes the likelihood of the survival and recovery of threatened or endangered species using that habitat.

(49) "Dike" means an embankment or ridge of either natural or manmade materials used to prevent the movement of liquids, sludges, solids, or other materials.

(50) "Director" means the director of the cabinet's division of waste management.

(51) "Discharge" means but is not limited to spilling, leaking, pumping, pouring, emitting, emptying, or dumping (KRS 224.877(a)).

(52) "Disease vector" means all insects, birds or gnawing animals such as rats, mice or ground squirrels, which are capable of transmitting pathogens.

(53) "Disposal" shall have the meaning specified in KRS 224.005 [means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment, be emitted into the air or be discharged into any water, including groundwaters (KRS 224.005)].

(54) "Disposal facility" see "hazardous waste site or facility - disposal facility" or "solid

waste site or facility-disposal facility".

(55) "Elementary neutralization unit" see "hazardous waste site or facility - elementary neutralization unit."

(56) "Emergency permit" see "permit-emergency/permit".

(57) "Endangered or threatened species" means any species listed as such pursuant to Section 4 of the Endangered Species Act, as amended, 16 U.S.C. 1536.

(58) "Environmental emergency" includes any release or threatened release of materials into the environment in such quantities or concentrations as to cause or threaten to cause an imminent and substantial danger to human health or the environment; the term includes, but is not limited to, discharges of oil and hazardous substances prohibited by section 311(b)(3) of the federal Clean Water Act (P.L. 92-500), as amended (KRS 224.877(1)(d).

(59) "EPA hazardous waste number" means the number assigned by EPA and the cabinet to each hazardous waste listed in 401 KAR 31:040, and to each characteristic identified in 401 KAR 31:030.

(60) "EPA identification number" means the number assigned by EPA or the cabinet to each generator, transporter, and treatment, storage, or disposal facility.

(61) "EPA region" means the states and territories found in any one (1) of the following ten (10) regions:

Region I - Maine, Vermont, New Hampshire, Massachusetts, Connecticut, and Rhode Island.

Region II - New York, New Jersey, Puerto Rico, and the Virgin Islands.

Region III - Pennsylvania, Delaware, Maryland, West Virginia, Virginia, and the District of Columbia.

Region IV - Kentucky, Tennessee, North Carolina, Mississippi, Alabama, Georgia, South Carolina, and Florida.

Region V - Minnesota, Wisconsin, Illinois, Michigan, Indiana, and Ohio.

Region VI - New Mexico, Oklahoma, Arkansas, Louisiana, and Texas.

Region VII - Nebraska, Kansas, Missouri, and Iowa.

Region VIII - Montana, Wyoming, North Dakota, South Dakota, Utah, and Colorado.

Region IX - California, Nevada, Arizona, Hawaii, Guam, American Samoa, and Commonwealth of Northern Mariana Islands.

Region X - Washington, Oregon, Idaho, and Alaska.

(62) "Ephemeral stream" means a stream which flows only in direct response to precipitation in the immediate watershed or in response to the melting of a cover of snow and ice and which has a channel bottom that is always above the local water table.

(63) "Equivalent method" means any testing or analytical method, approved jointly by the administrator and the secretary under 401 KAR Chapter 31, or methods in 401 KAR Chapters 47 and 48, approved by the secretary of the cabinet.

(64) "Existing hazardous waste site or facility" or "existing facility" means a hazardous waste facility which was in operation, or for which continuous construction had commenced, on or before November 19, 1980. A facility has commenced construction if:

(a) The owner or operator had obtained the federal, state and local approvals or permits necessary to begin physical construction; and

(b) Either:

1. A continuous on-site, physical construction program has begun; or

2. The owner or operator has entered into contractual obligations, which cannot be cancelled or modified without substantial loss, for physical construction of the facility to be completed within a reasonable time.

(65) "Existing portion" means that land surface area of an existing hazardous waste management unit, included in the original Part A permit application, on which wastes have been placed prior to the issuance of a permit.

(66) "Existing tank system" see "hazardous waste management unit - hazardous waste tank-existing tank system."

(67) "Explosive gas" means methane (CH_4) in 401 KAR 30:030, Section 1(1).

(68) "Existing unit" means any solid waste disposal unit that is receiving solid waste as of the effective date of this regulation and has not received the final layers of cover material.

(69) "Facility" means all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of waste. A facility may consist of several treatment, storage, or disposal operational units (e.g., one (1) or more landfills, surface impoundments, or combination of them).

(70) "Facility structures" means any buildings and sheds or utility or drainage lines on the solid waste site or facility.

(71) "Federal agency" means any department, agency, or other instrumentality of the federal government, any independent agency or establishment of the federal government including any government corporation, and the United States Government Printing Office.

(72) "Federal, state and local approvals or permits necessary to begin physical construction" means permits and approvals required under federal, state or local hazardous waste control statutes, regulations or ordinances.

(73) "Final closure":

(a) Of a hazardous waste site or facility means the closure of all hazardous waste management units at the facility in accordance with all applicable closure requirements so that hazardous waste management activities under 401 KAR Chapters 34 and 35 are no longer conducted at the facility unless subject to the provisions in Section 5 of 401 KAR 32:030.

(b) Of a solid waste site or facility means the approved closure of a solid waste site or facility in accordance with the applicable requirements of 401 KAR 48:060, 401 KAR 48:090, 401 KAR 48:170 or 401 KAR 48:200 and the environmental performance standards in 401 KAR 48:050.

(74) "Flood plain" means areas adjoining inland waters which are inundated by the base flood, unless otherwise specified in 401 KAR 47:040.

(75) "Food chain crops" means tobacco, crops grown for human consumption, and crops grown for feed for animals whose products are consumed by humans.

(76) "Freeboard" means the vertical distance between the top of a tank or surface impoundment dike and the surface of the waste contained therein.

(77) "Free liquids" means liquids which readily separate from the solid portion of a waste under ambient temperature and pressure.

(78) "Generator" means any person, by site, whose act or process produces hazardous waste identified or listed in 401 KAR Chapter 31 or whose act first causes a hazardous waste to become subject to regulation.

(a) "Small quantity generator" means a generator who generates more than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month.

(b) "Limited quantity generator" means a generator who generates less than 100 kilograms of hazardous waste in a calendar month.

(c) If a limited quantity generator generates acutely hazardous waste listed in Sections 2, 3, and 4(5) of 401 KAR 31:040 in a calendar month in quantities greater than one (1) kilogram, all quantities of that acutely hazardous waste are subject to regulation under 401 KAR Chapters 32 through 39, and the notification and permitting requirements of KRS 224.855 and 224.864 through 224.877.

(79) "Groundwater" means water which is in the zone of perennial saturation. It is differentiated from water held in the soil, from water in downward motion under the force of gravity in the perennially unsaturated zone, and from water held in chemical or electrostatic bondage. It is synonymous with the term "phreatic water."

(80) "Groundwater table" means the upper boundary of the saturated zone in which the hydrostatic pressure of the groundwater is equal to the atmospheric pressure.

(81) "Hazardous substance" means any substance or combination of substances including wastes of a solid, liquid, gaseous or semisolid form which, because of its quantity, concentration or physical, chemical or infectious characteristics, may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or pose a substantial present or potential hazard to human health or the environment. Such substances may include but are not limited to those which are, according to criteria established by the cabinet, toxic, corrosive, ignitable, irritants, strong sensitizers or explosive (KRS 224.877(b)).

(82) "Hazardous waste constituent" means a constituent that caused the cabinet to list the hazardous waste in 401 KAR 31:040, or a constituent listed in Section 5(3) of 401 KAR 31:030.

(83) "Hazardous waste management" means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous waste.

(84) "Hazardous waste management unit" is a contiguous area of land on or in which hazardous waste is placed, or the largest area in which there is significant likelihood of mixing hazardous waste constituents in the same area. Examples of hazardous waste management units include a surface impoundment, a waste pile, a land treatment area, a landfill cell, an incinerator, a tank and its associated piping and underlying containment system and a container storage area. A container alone does not constitute a unit; the unit includes containers and the land or pad upon which they are placed.

(a) Hazardous waste tanks.

1. "Aboveground tank" means a device meeting the definition of "tank" in this section and that is situated in such a way that the entire surface area of the tank is completely above the plane of the adjacent surrounding surface and the entire surface area of the tank (including the tank bottom) is able to be visually inspected.

2. "Component" means either the tank or ancillary equipment of a tank system.

3. "Existing tank system" or "existing component" means a tank system or component that is used for the storage or treatment of hazardous waste and that is in operation, or for which installation has commenced on or prior to July 14, 1986. Installation will be considered to have commenced if the owner or operator has obtained all federal, state, and local approvals or permits necessary to begin physical construction of the site or installation of the tank system and if either:

a. A continuous on-site physical construction or installation program has begun; or

b. The owner or operator has entered into contractual obligations - which cannot be cancelled or modified without substantial loss - for physical construction of the site or installation of the tank system to be completed within a reasonable time.

4. "In-ground tank" means a device meeting the definition of "tank" in this section whereby a portion of the tank wall is situated to any degree within the ground, thereby preventing visual inspection of that external surface area of the tank that is in the ground.

5. "New tank system" or "new tank component" means a tank system or component that will be used for the storage or treatment of hazardous waste and for which installation has commenced after July 14, 1986 except, however, for purposes of Section 4(7)(b) of 401 KAR 34:190 and Section 4(7)(b) of 401 KAR 35:190, a new tank system is one for which construction commences after July 14, 1986. (See also "existing tank system".)

6. "On-ground tank" means a device meeting the definition of "tank" in this section and that is situated in such a way that the bottom of the tank is on the same level as the adjacent surrounding surface so that the external tank bottom cannot be visually inspected.

7. "Tank system" means a hazardous waste storage or treatment tank and its associated ancillary equipment and containment system.

8. "Underground tank" means a device meeting the definition of "tank" in this section whose entire surface area is totally below the surface of and covered by the ground.

9. "Unfit-for-use tank system" means a tank system that has been determined through an integrity assessment or other inspection to be no longer capable of storing or treating hazardous waste without posing a threat of release of hazardous waste to the environment.

(85) "Hazardous waste site or facility" means any place at which hazardous waste is treated, stored, or disposed of by landfilling, incineration, or any other method.

(a) "Boiler" means an enclosed device using control flame combustion and having the following characteristics:

1.a. The unit must have physical provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases; and

b. The unit's combustion chamber and primary energy recovery section(s) must be of integral

design. To be of integral design, the combustion chamber and the primary energy recovery section(s) (such as water walls and superheaters) must be physically formed into one (1) manufactured or assembled unit. A unit in which the combustion chamber and the primary energy recovery section(s) are joined only by ducts or connections carrying flue gas is not integrally design, however, secondary energy recovery equipment (such as economizers or air preheaters) need not be physically formed into the same unit as the combustion chamber and the primary energy recovery section. The following units are not precluded from being boilers solely because they are not of integral design: process heaters (units that transfer energy directly to a process stream), and fluidized bed combustion units; and

c. While in operation, the unit must maintain a thermal energy recovery efficiency of at least sixty (60) percent, calculated in terms of the recovered energy compared with the thermal value of the fuel; and

d. The unit must export and utilize at least seventy-five (75) percent of the recovered energy, calculated on an annual basis. In this calculation, no credit shall be given for recovered heat used internally in the same unit. (Examples of internal use are the preheating of fuel or combustion air, and the driving of induced or forced draft fans or feedwater pumps); or

2. The unit is one (1) which the cabinet has determined, on a case-by-case basis, to be a boiler, after considering the standards in 401 KAR 30:080.

(b) "Disposal facility" means a facility or part of a facility at which hazardous waste is intentionally placed into or on any land or water and at which waste will remain after closure.

(c) "Elementary neutralization unit" means a tank, container, transport vehicle, or vessel which is used for neutralizing wastes which are hazardous wastes only because they exhibit the corrosivity characteristic defined in 401 KAR Chapter 31 or are wastes listed in 401 KAR Chapter 31 only for this reason.

(d) "Incinerator" means any enclosed device using controlled flame combustion that neither meets the criteria for classification as a boiler nor is listed as an industrial furnace.

(e) "Industrial furnace" means any of the following enclosed devices that are integral components of manufacturing processes and that use controlled flame devices to accomplish recovery of materials or energy:

1. Cement kilns.
2. Lime kilns.
3. Aggregate kilns.
4. Phosphate kilns.
5. Coke ovens.
6. Blast furnaces.
7. Smelting, melting, and refining furnaces (including pyrometallurgical devices such as cupolas, reverberator furnaces, sintering machines, roasters, and foundry furnaces).
8. Titanium dioxide chloride process oxidation reactors.
9. Methane reforming furnaces.
10. Pulping liquor recovery furnaces.
11. Combustion devices used in the recovery of sulfur values from spent sulfuric acid.
12. Such other devices as the cabinet may, after notice and comment, add to this list on the basis of criteria and Section 5 of 401 KAR 30:080.

(f) "Injection well" means a well into which fluids are injected to achieve subsurface emplacement.

(g) "Landfill" means a disposal facility or part of a facility where hazardous waste is placed in or on land and which is not a pile, a land treatment facility, a surface impoundment, or an underground injection well, a salt dome formation, a salt bed formation, an underground mine, or a cave.

(h) "Land treatment facility" means a facility or part of a facility at which hazardous waste is applied onto or incorporated into the soil surface; such facilities are disposal facilities if the waste will remain after closure.

(i) "Miscellaneous unit" means a hazardous waste management unit where hazardous waste is treated, stored, or disposed of and that is not a container, tank, surface impoundment, pile, land treatment unit, landfill, incinerator, boiler, industrial furnace, underground injection well with appropriate technical standards under 40 CFR Part 146, or unit eligible for a research, development, and demonstration permit under 401 KAR 38:060, Section 6.

(j) "Pile" or "waste pile" means any noncontainerized accumulation of solid, nonflowing hazardous waste that is used for treatment or storage.

(k) "Storage facility" means a facility or part of a facility at which hazardous waste is held for a temporary period, at the end of which the hazardous waste is treated, disposed, or stored elsewhere. A generator who accumulates his own hazardous wastes in an approved manner for less than ninety (90) days for subsequent transport on site or off site is not operating or maintaining a storage facility.

(l) "Surface impoundment" means a facility or part of a facility which is a natural topographic depression, manmade excavation, or diked area formed primarily of earthen materials (although it may be lined with manmade materials), which is designed to hold an accumulation of liquid wastes or wastes containing free liquids, and which is not an injection well. Examples of surface impoundments are holding, storage, settling, and aeration pits, ponds, and lagoons.

(m) "Tank" means a stationary device designed to contain an accumulation of hazardous waste which is constructed primarily of nonearthen materials (e.g., wood, concrete, steel, plastic) which provide structural support.

(n) "Thermal treatment facility" means a facility or part of a facility which uses elevated temperatures as the primary means to change the chemical, physical or biological character or composition of hazardous waste. Examples of thermal treatment processes are incineration, molten salt, pyrolysis, calcination, wet air oxidation, and microwave discharge.

(o) "Totally enclosed treatment facility" means a facility for the treatment of hazardous waste which is directly connected to an industrial production process and which is constructed and operated in a manner which prevents the release of any hazardous waste or any constituent thereof into the environment during treatment. An example is a pipe in which acid is neutralized.

(p) "Treatment facility" means a facility or part of a facility using any method, technique or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste, or so as to recover energy or material resources from the waste, or so as to render such waste nonhazardous or less hazardous; safer to transport, store, or dispose of; or amenable for recovery, amenable for storage, or reduced in volume.

(q) "Wastewater treatment unit" means a tank which is part of a wastewater treatment facility which is subject to regulation under either Section 402 or Section 307(b) of the Clean Water Act of 1972 and which receives, treats, stores, generates, or accumulates influent wastewater or receives, stores, treats, generates or accumulates wastewater treatment sludge, either of which is a hazardous waste.

(86) "Holocene" means the most recent epoch of the quaternary period, extending from the end of the pleistocene to the present.

(87) "Household solid waste" shall have the meaning specified in KRS 224.005 [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].

(88) "Inactive portion" means that portion of a hazardous waste site or facility which is not operated after November 19, 1980.

(89) "Incinerator" see "hazardous waste site or facility - incinerator" or "solid waste site or facility-incinerator".

(90) "Incompatible waste" means a hazardous waste which is unsuitable for placement in a particular device or facility because it may cause corrosion or decay of containment materials, or unsuitable for commingling with another waste or material under uncontrolled conditions because the commingling might produce heat or pressure, fire or explosion, violent reaction, toxic dusts, mists, fumes, or gases, or flammable fumes or gases.

(91) "Individual generation site" means the contiguous site at or on which one (1) or more hazardous wastes are generated. An individual generation site, such as a large manufacturing plant, may have one (1) or more sources of hazardous waste but is considered a single or individual generation site if the site or property is contiguous.

(92) "Industrial furnace" see "hazardous waste site or facility - industrial furnace."

(93) "Industrial solid waste" shall have the meaning specified in KRS 224.005 [means solid waste generated by manufacturing or industrial processes that is not a hazardous waste regulated under 401 KAR Chapters 32 through 39. Such waste may include, but is not limited to, waste resulting from the following manufacturing processes: electric power generation; fertilizer or agricultural chemicals; food and related products or by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include mining waste or oil and gas waste].

(94) "Inert landfill" see "solid waste site or facility - inert landfill."

(95) "Infectious waste" means those wastes which may cause disease or reasonably be suspected of harboring pathogenic organisms; included are wastes resulting from the operation of medical clinics, hospitals, and other facilities producing wastes which may consist of, but are not limited to, diseased human and animal parts, contaminated bandages, pathological specimens, hypodermic needles, contaminated clothing, and surgical gloves.

(96) "Inground tank" see "hazardous waste management unit - hazardous waste tank - inground tanks" or "solid waste site or facility-tanks-inground tanks".

(97) "Injection well" see "hazardous waste site or facility - injection well" or "solid waste site or facility-injection well".

(98) "Inner liner" means a continuous layer of material placed inside a tank or container which protects the construction materials of the tank or container from the contained hazardous waste or reagents used to treat the hazardous waste.

(99) "In operation" refers to a facility which is treating, storing, or disposing of hazardous waste.

(100) "Installation inspector" means a person who, by reason of his knowledge of the physical sciences and the principles of engineering, acquired by a professional education and related practical experience, is qualified to supervise the installation of a hazardous waste management unit including tank systems.

(101) "Interim status" means the designation of a hazardous waste site or facility which was in existence on November 19, 1980, and has submitted a Part A application under 401 KAR Chapter 38 or under 40 CFR Part 270 and is treated as having a permit until such time as final administrative disposition of such application is made.

(102) "Intermittent stream" means a stream or reach of stream that drains a watershed of one (1) square mile or more but does not flow continuously during the calendar year.

(103) "International shipment" means the transportation of hazardous waste into or out of the jurisdiction of the United States.

(104) "Karst terrain" means a type of topography where limestone, dolomite or gypsum is present and is characterized by naturally occurring closed topographic depressions or sinkholes, caves, disrupted surface drainage, and well developed underground solution channels formed by dissolution of these rocks by water moving underground.

(105) "KPDES" means Kentucky Pollutant Discharge Elimination System.

(106) "Lab pack" means any large container equal to or smaller than fifty-five (55) gallons that holds many smaller containers of various content tightly secured with packing material.

(107) "Landfarming facility" see "solid waste site or facility - landfarming facility."

(108) "Landfill" see "hazardous waste site or facility - landfill."

(109) "Landfill cell" means a discrete volume of a hazardous waste landfill which uses a liner to provide isolation of wastes from adjacent cells or wastes. Examples of landfill cells are trenches and pits.

(110) "Land treatment facility" see "hazardous waste site or facility-land treatment facility."

(111) "Lateral expansion" means a horizontal expansion of the waste boundaries of an existing solid waste landfill unit.

(112) "Leachate" means any liquid including any suspended components in the liquid, that has percolated through or drained from waste.

(113) "Leak-detection system" means a system capable of detecting the failure of either the primary or secondary containment system or the presence of a release of hazardous waste, hazardous waste constituents or accumulated liquid in the secondary containment system. Such a system must employ operational controls (e.g., daily visual inspections for releases into the secondary containment system of aboveground tanks) or consist of an interstitial monitoring device designed to detect continuously and automatically the failure of the primary or secondary containment system or the presence of a release of hazardous waste constituents or accumulated liquids into the secondary containment system.

(114) "Limited quantity generator" see "generator-limited quantity generator."

(115) "Liner" means a continuous layer of natural or manmade material, beneath or on the sides of a hazardous or solid waste site or facility, including but not limited to a waste pile, surface impoundment, landfill, or landfill cell, or beneath or on the sides of a waste site or facility which restricts the movement of the wastes, waste constituents, or leachate.

(116) "Lower explosive limit" means the lowest percent by volume of a mixture of explosive gases which will propagate a flame in air at twenty-five (25) degrees Celsius and atmospheric pressure.

(117) "Management facility" see "solid waste site or facility-management facility".

(118) "Major modification" means:

(a) For hazardous waste sites or facilities, a change in ownership where the cabinet determines that other changes in the permit are necessary as a result of the change in ownership or operational control, area occupied, disposal method, or other significant change in the operation of a waste site or facility. (Note: Minor modifications are described in Section 3 of 401 KAR 38:040.)

(b) For solid waste sites and facilities, a change meeting the criteria in Section 3 of 401 KAR 47:130.

(119) "Manifest" means the shipping document form contained in Appendix A of 401 KAR 32:100, and if necessary the form contained in Appendix B of 401 KAR 32:100, originated and signed by the generator in accordance with the instructions included in 401 KAR 32:100.

(120) "Manifest document number" means the U.S. EPA twelve (12) digit identification number assigned to the generator plus a unique, serially increasing, five (5) digit document number assigned to the manifest by the generator for recordkeeping and reporting purposes.

(121) "Mining overburden returned to the mine site" means any material overlying an economic mineral deposit which is removed to gain access to that deposit and is then used for reclamation of a surface mine.

(122) "Miscellaneous unit" see "hazardous waste site or facility - miscellaneous unit" or "solid waste site or facility - miscellaneous unit".

(123) "Monitoring" means the act of systematically inspecting and collecting data on operational parameters or on the quality of the air, soil, groundwater, or surface water.

(124) "Monitoring well" means a well used to obtain water samples for water quality and quantity analysis and groundwater levels.

(125) "Movement" means that hazardous waste transported to a facility in an individual vehicle.

(126) "Municipal solid waste" shall have the meaning specified in KRS 224.005 [means household solid waste and commercial solid waste].

(127) "NPDES" means National Pollutant Discharge Elimination System (KRS 224.005(29)).

(128) "New" means any hazardous waste site or facility that commenced construction after November 19, 1980.

(129) "New tank system" see "hazardous waste management unit-hazardous waste tank-new tank system".

(130) "Notice of intent to apply for a solid waste permit" see "application - notice of intent to apply for a solid waste permit".

(131) "Off-site" means properties noncontiguous to the generation site.

(132) "Onground tanks" see "hazardous waste management unit - hazardous waste tanks - onground tanks" or "solid waste site or facility - tank - onground tanks".

(133) "On-site" means on the same or geographically contiguous property which may be divided by public or private right-of-way, provided the entrance and exit between the properties is at a crossroads intersection, and access is by crossing, as opposed to going along the right-of-way. Noncontiguous properties owned by the same person but connected by a right-of-way which he controls and to which the public does not have access is also considered on-site property.

(134) "100 year flood" means a flood that has a one (1) percent or one (1) in 100 or greater chance of recurring in any year, or a flood of a magnitude equaled or exceeded once in 100 years on the average over a significantly long period, taking into consideration the present engineering aspect of the flood plain.

(135) "Open burning" means the combustion of any material or solid waste without:

(a) Control of combustion air to maintain adequate temperature for efficient combustion;

(b) Containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion; and

(c) Control of emission of the gaseous combustion products.

(136) "Open dump" shall have the meaning specified in KRS 224.005 [means any facility or site for the disposal of solid waste which does not meet the criteria for a sanitary landfill under regulations promulgated by the cabinet which shall be consistent with regulations promulgated under section 4004, Resource Conservation and Recovery Act of 1976, as amended (P.L. 94-580), and which is not a facility for disposal of hazardous waste (KRS 224.005)].

(137) "Operational plan" means the approved plan of operations filed with the cabinet which describes the method of operation that the permittee will use in the treatment, storage, and/or disposal of wastes.

(138) "Operator" means any person responsible for overall operation of an on-site or off-site

waste facility, including any private contractor conducting operational activities at a federal facility.

(139) "Owner" means any person who owns an on-site or off-site waste facility, or any part of a facility.

(140) "Part A of the application" or "Part A" see "application - Part A application".

(141) "Part B of the application" or "Part B" see "application - Part B application".

(142) "Partial closure" means the closure of a hazardous waste management unit in accordance with the applicable closure requirements of 401 KAR Chapters 34 and 35 at a facility that contains other active hazardous waste management units. For example, partial closure may include the closure of a tank (including its associated piping and underlying containment systems), landfill cell, surface impoundment, waste pile, or other hazardous waste management unit, while other units of the same facility continue to operate.

(143) "Perennial stream" means a stream or that part of a stream that flows continuously during all of the calendar year as a result of groundwater discharge or surface run-off. The term does not include "intermittent stream" or "ephemeral stream."

(144) "Periodic application of cover material" means the application and compaction of soil or other suitable material over disposed waste at a solid waste site or facility at the end of each operating day or at such frequencies and in such a manner as to reduce the risks of fire and to impede disease vector's access to the waste.

(145) "Permit" means the authorization or other control document issued by the cabinet to implement the requirements of the waste management regulations. The term "permit" includes also "permit by rule," and "emergency permit." However, the term "permit" does not include "draft permit" or a "proposed permit."

(a) "Emergency permit" means a permit issued by the cabinet to temporarily store, treat or dispose of hazardous waste in accordance with the provisions of Section 2 of 401 KAR 38:060, or to temporarily manage, process, or dispose of a solid waste in accordance with the provisions of Section 2 of 401 KAR 47:150.

(b) "Permit by rule" means that certain classes of sites or facilities are presumed to hold a permit so long as the operations of such sites or facilities do not present a threat of imminent hazard to public health or a substantial environmental impact, in violation of any of the environmental performance standards specified in 401 KAR 30:020 or 47:030 or the maximum groundwater contaminant levels specified in Section 5 of 401 KAR 34:060. Both hazardous and solid waste sites or facilities may be considered to hold a permit by rule.

1. Examples of hazardous waste sites or facilities which are permitted by rule include facilities operating under an interim status permit and facilities identified in Section 1 of 401 KAR 38:060.

2. Examples of solid waste sites or facilities which are permitted by rule include facilities identified in 401 KAR 47:150.

(c) "Registered permit by rule" means that certain classes of solid waste sites or facilities as specified in 401 KAR 47:080 have a permit as provided in 401 KAR 47:110 or 401 KAR 48:200.

(d) "Research, development and demonstration permit" means a solid waste treatment or disposal facility using innovative and experimental technology as specified in sections of 401 KAR 47:150.

(146) "Permittee" means any person holding a valid permit issued by the cabinet to manage, treat, store, and/or dispose of waste.

(147) "Person" shall have the meaning specified in KRS 224.005 [means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, federal agency, state agency, city, commission, political subdivision of the Commonwealth, or any interstate body (KRS 224.005)].

(148) "Personnel" or "facility personnel" means all persons who work at or oversee the operations of a waste facility, and whose actions or failure to act may result in noncompliance with the requirements of the waste management regulations.

(149) "Pile" see "hazardous waste site or facility - pile" or "solid waste site or facility - pile".

(150) "Point of compliance" means for solid waste site and facilities, groundwater monitoring wells located within 250 feet of the waste boundary as approved by the cabinet in accordance with 401 KAR 48:300.

(151) "Point source" means any discernible, confined, and discrete conveyance including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

(152) "Postclosure care" means the manner in which a facility must be maintained when it no longer accepts hazardous waste for disposal.

(153) "Postclosure monitoring and maintenance" shall have the meaning specified in KRS 224.005 [means the routine care, maintenance and monitoring of a solid waste disposal facility or hazardous waste treatment, storage, or disposal facility following closure of the facility].

(154) "Preventive measures" means the installation or testing of equipment or devices, designated way of performing a specified operation or the preparation of an emergency response plan (KRS 224.877(c)).

(155) "Processed tire" means any tire that has been altered to prevent entrapment of air or water. Processing methods may include shredding, chipping, recycling for energy, or other procedures approved by the cabinet.

(156) [(155)] "Processing facility" see "solid waste site or facility - processing facility".

(157) [(156)] "Proposed permit" means a document prepared under Section 3 of 401 KAR 47:140 indicating the cabinet's tentative decision to issue or deny, modify, revoke or terminate a permit. A notice of intent to terminate a permit and a notice of intent to deny a permit as discussed in Section 2 of 401 KAR 47:140 are types of proposed permits. A denial of a request for modification, revocation or termination as discussed in Section 2 of 401 KAR 47:140 is not a proposed permit.

(158) [(157)] "Publicly owned treatment works" or "POTW" shall have the meaning specified in KRS 224.005 [means any device or system used in the treatment (including recycling and recovery) of any municipal sewage or industrial wastes of

a liquid nature which is owned by the Commonwealth or a political subdivision of the Commonwealth (KRS 224.005)].

(159) [(158)] "Putrescible" means susceptible to rapid decomposition by bacteria, fungi, or oxidation sufficient to cause nuisances such as odors, gases, or other offensive conditions.

(160) [(159)] "Recharge zone" means an area supplying the water which enters an underground drinking water source.

(161) [(160)] "Reclaimed" see Section 1 of 401 KAR 31:010.

(162) [(161)] "Recovered material" shall have the meaning specified in KRS 224.005 [means waste material and by-products which have been recovered or diverted from waste, but does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process (KRS 224.005)].

(163) [(162)] "Recycling" shall have the meaning specified in KRS 224.005 [means any treatment process for the reclamation of material or energy from waste (KRS 224.005). See also Section 1 of 401 KAR 31:010].

(164) [(163)] "Recycling center" see "solid waste site or facility - recycling center".

(165) [(164)] "Recycling facility" see "solid waste site or facility - recycling facility".

(166) [(165)] "Regional Administrator" means the regional administrator for the EPA region in which the facility is located, or his designee.

(167) [(166)] "Regional integrated waste treatment and disposal demonstration facility" means a model hazardous waste facility receiving wastes from a region larger than the county boundaries in which it is located, from more than one (1) person, and utilizing multiple treatment and disposal technologies, one (1) of which must be a secure landfill, and one (1) of which must be a high technology incinerator, and designed so as to promote resource recovery and energy generation from hazardous waste and the use of state-of-the-art techniques for rendering waste nonhazardous, and the disposal of waste in a manner that minimizes the risk to public health and long term environmental impacts (KRS 224.2201(4)).

(168) [(167)] "Regulated unit" means hazardous waste land disposal sites or facilities, or portions of existing hazardous waste land disposal sites or facilities that continue to receive waste after January 26, 1983.

(169) [(168)] "Research, development and demonstration permit" see "permit - research, development and demonstration permit".

(170) [(169)] "Residential landfill" see "solid waste site or facility - residential landfill."

(171) [(170)] "Residual landfill" see "solid waste site or facility - residual landfill."

(172) [(171)] "Representative sample" means a sample of a universe or whole (e.g., waste pile, lagoon, groundwater) which can be expected to exhibit the average properties of the universe or whole.

(173) [(172)] "Resource recovery" means the recovery of material or energy from waste.

(174) [(173)] "Run-off" means any rainwater, leachate, or other liquid that drains overland from any part of a facility.

(175) [(174)] "Run-on" means any rainwater, leachate, or other liquid that drains overland onto any part of a facility.

(176) [(175)] "Salvaging" means the controlled removal of waste materials for utilization in a manner approved by the cabinet.

(177) [(176)] "Sanitary landfill" see "solid waste site or facility - sanitary landfill".

(178) [(177)] "Saturated zone (zone of saturation)" means that part of the earth's crust containing groundwater in which all voids, large and small, are filled with liquid.

(179) [(178)] "Scavenging" means the removal of waste materials from a waste management site or facility in a manner deemed by the cabinet to be dangerous to the health and safety of any person.

(180) [(179)] "Schedule of compliance" means a schedule of remedial measures included in a permit or cabinet order, including an enforceable sequence of interim requirements (for example, actions, operations, or milestone events) leading to compliance with KRS Chapter 224 and the waste management regulations.

(181) [(180)] "Scrap metal" see Section 1 of 401 KAR 31:010.

(182) [(181)] "Secretary" shall have the meaning specified in KRS 224.005 [means the secretary of the Natural Resources and Environmental Protection Cabinet (KRS 224.005)].

(183) [(182)] "Site" means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the waste facility or activity.

(184) [(183)] "Sludge" means any solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility exclusive of the treated effluent from a wastewater treatment plant or any other such waste having similar characteristics and effects.

(185) [(184)] "Small quantity generator" see "generator - small quantity generator".

(186) [(185)] "Solid waste management" shall have the meaning specified in KRS 224.005 [means the administration of solid waste activities: collection, source separation, storage, transportation, transfer, processing, treatment and disposal, which shall be in accordance with a departmentally approved county or multicounty solid waste management plan (KRS 224.005)].

(187) [(186)] "Solid waste management area" or "area" shall have the meaning specified in KRS 224.005 [means any county or group of counties so designated by the cabinet by approval of the local solid waste management plan (KRS 224.005)].

(188) [(187)] "Solid waste management facility" means any resource recovery system or component thereof, any system, program or facility for resource conservation, and any facility for collection, source separation, storage, transportation, transfer, processing, treatment or disposal of solid waste, whether such facility is associated with facilities generating such wastes or otherwise (KRS 224.005).

(189) [(188)] "Solid waste site or facility" means any place at which solid waste is managed, processed or disposed by landfilling, incineration, landfarming or any other method. The term includes the following:

(a) "Construction/demolition debris landfill" means a solid waste site or facility for the disposal of solid waste resulting from the construction, remodeling, repair and demolition of structures and roads, and for the disposal of uncontaminated solid waste consisting of vegetation resulting from land clearing and

grubbing, utility line maintenance and seasonal and storm related cleanup. [Such waste includes, but is not limited to, bricks, shredded or segmented tires, concrete and other masonry materials, soil, rock, wood, wall coverings, plaster, drywall, plumbing fixtures, tree stumps, limbs, saw dust, leaves, yard waste, paper, paper products, metals, furniture, insulation, roofing shingles, asphaltic pavement, glass, plastics that are not sealed in a manner that conceals other wastes, electrical wiring and components containing no liquids or hazardous metals that are incidental to any of the above and other inert waste as approved by the cabinet. Asbestos containing materials may be accepted only if the permit application includes procedures approved by the cabinet to handle these materials. Construction/demolition debris landfills shall not be for disposal of garbage, electrical fixtures containing hazardous liquids such as fluorescent light ballasts or transformers, PCB containing waste, hazardous material spill residues, limited quantity generator hazardous waste, or any waste regulated by 401 KAR Chapters 31 and 32, whole tires, liquids, drums, fuel tanks, or other nonpermitted wastes.] The technical requirements for construction/demolition debris landfills are found in 401 KAR 47:080, 401 KAR 48:050 and 401 KAR 48:060.

(b) "Contained landfill" means a solid waste site or facility which accepts for disposal solid waste. [including residential, commercial, institutional, industrial, municipal solid waste, shredded tires, household hazardous waste, limited quantity generator hazardous waste and spill cleanup residues that are not hazardous waste.] The technical requirements for contained landfills are found in 401 KAR 47:080, 401 KAR 48:050 and 401 KAR 48:070 through 401 KAR 48:090.

(c) "Convenience center" shall have the meaning specified in KRS 224.005 [means a facility that is manned during operating hours for the collection and subsequent transportation of municipal solid wastes from individual households].

(d) "Disposal facility" means a facility or part of a facility at which solid waste is intentionally placed into or on any land or water and at which waste will remain after closure.

(e) "Incinerator" means any enclosed device using controlled flame combustion for burning solid waste.

(f) "Injection well" means a well into which fluids are injected to achieve subsurface emplacement.

(g) "Landfarming facility" means a facility for land application of sludges or other solid waste by any method for purposes of disposal. It can be on any piece or pieces of land and may improve the physical and chemical qualities of the land for agricultural purposes, but does not alter the topography of the application area as revealed by contours and will not disturb the soil below three (3) feet from the surface.

(h) "Management facility" means a facility or part of a facility at which solid waste is held for a temporary period, at the end of which solid waste is processed, disposed or managed elsewhere.

(i) "Miscellaneous unit" means a solid waste management unit where waste is disposed of and that is not a container, tank, surface impoundment, pile, landfarming unit, landfill, incinerator, underground injection well with appropriate technical standards under 40 CFR Part 146, or unit eligible for a research, development, and demonstration permit under Section 3 of 401 KAR 47:150.

(j) "Pile" or "waste pile" means any noncontainerized accumulation of nonflowing solid waste that is used for processing or management.

(k) "Processing facility" means a facility or part of a facility using any method, technique or procedure, including neutralization, designed to change the physical, chemical, or biological character or composition of any solid waste so as to neutralize such waste, or so as to recover energy or material resources from the waste, or so as to render such waste less hazardous; safer to transport, store, or dispose of; or amenable for recovery, amenable for handling or reduced in volume.

(l) "Recycling center" means a facility or a part of a facility at which solid waste is received and managed in a manner amenable for the recovery of material or energy. This term does not include recycling facilities.

(m) "Recycling facility" means a facility or a part of a facility at which solid waste is processed to reclaim material or energy from the solid waste.

(n) "Residual landfill" means a facility for the disposal of specific solid waste(s), including special waste, which is located, designed, constructed, operated, maintained and closed in conformance with the "Environmental performance standards" in 401 KAR 47:030 and which receives a case-by-case design review by the cabinet.

(o) "Sanitary landfill" means a facility for the disposal of solid waste which complies with the "environmental performance standards" specified in 401 KAR 47:030.

(p) "Surface impoundment" means a facility or part of a facility which is a natural topographic depression, manmade excavation, or diked area formed primarily of earthen materials (although it may be lined with manmade materials), which is designed to hold an accumulation of liquid wastes or wastes containing free liquids, and which is not an injection well. Examples of surface impoundments are holding, storage, settling, and aeration pits, ponds, and lagoons.

(q) "Tank" means a stationary device designed to contain an accumulation of leachate or liquid solid waste which is constructed primarily of nonearthen materials (e.g., wood, concrete, steel, plastic) which provide structural support.

1. "Aboveground tank" means a device meeting the definition of "tank" in this subsection and that is situated in such a way that the entire surface area of the tank is completely above the plane of the adjacent surrounding surface and the entire surface area of the tank (including the tank bottom) is able to be visually inspected.

2. "Component" means either the tank or ancillary equipment of a tank system.

3. "Inground tank" means a device meeting the definition of "tank" in this subsection whereby a portion of the tank wall is situated to any degree within the ground, thereby preventing visual inspection of that external surface area of the tank that is in the ground.

4. "Onground tank" means a device meeting the

definition of "tank" in this subsection and that is situated in such a way that the bottom of the tank is on the same level as the adjacent surrounding surface so that the external tank bottom cannot be visually inspected.

5. "Tank system" means a solid waste tank and its associated piping, ancillary equipment and containment system.

6. "Underground tank" means a device meeting the definition of "tank" in this subsection whose entire surface area is totally below the surface of and covered by the ground.

7. "Unfit-for-use tank system" means a tank system that has been determined through an integrity assessment or other inspection to be no longer capable of managing or processing solid waste without posing a threat of release of waste to the environment.

(r) "Transfer facility" shall have the meaning specified in KRS 224.005 [means any transportation related facility including loading docks, parking areas, and other similar areas where shipments of solid waste are held or transferred during the normal course of transportation].

(s) "Unit" or "solid waste unit" means a contiguous area of land on or in which solid waste is placed, or the largest area in which there is significant likelihood of mixing waste constituents in the same area. Examples of solid waste units include a surface impoundment, a waste pile, a land processing area, a landfill cell, an incinerator, a tank and its associated piping and underlying containment system and a container storage area. A container alone does not constitute a unit; the unit includes containers and the land or pad upon which they are placed.

(t) "Wastewater treatment unit" means a tank which is part of a wastewater treatment facility which is subject to regulation under either Section 402 or Section 307(b) of the Clean Water Act of 1972 and which receives, treats, stores, generates, or accumulates influent wastewater or receives, manages, processes, generates or accumulates wastewater treatment sludge, either of which is a solid waste.

(u)1. "Inert landfill" means a facility for the proper disposal of inert, nonsoluble and nonputrescible solid waste, including construction materials, certain industrial or special wastes, and other waste material with specific approval from the cabinet. Certain putrescible wood product wastes (such as cardboard, paper, sawdust, wood chips, and tree trimmings, etc.) may be considered by the cabinet for disposal at inert landfills.

2. "Residential landfill" means a facility for the proper disposal of solid waste including residential waste, commercial waste, institutional waste, and those sludges, industrial or special waste with specific approval from the cabinet.

(190) [(189)] "Solid waste unit" see "solid waste site or facility - unit".

(191) [(190)] "Special wastes" means those wastes of high volume and low hazard which include, but are not limited to, mining waste, utility wastes (fly ash, bottom ash, scrubber sludge), sludge from water treatment facilities and waste water treatment facilities, cement kiln dust, gas and oil drilling muds and oil production brines (KRS 224.868(1)(a)).

(192) [(191)] "Spent material" see Section 1 of 401 KAR 31:010.

(193) [(192)] "Spill" means any accidental spilling, leaking, pumping, pouring, emitting, or dumping of hazardous wastes or materials which, when spilled, become hazardous wastes into or on any land or water.

(194) [(193)] "State" means any of the fifty (50) states, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Northern Mariana Islands or Guam but does not include any foreign country.

(195) [(194)] "Storage facility" see "hazardous waste site or facility - storage facility."

(196) [(195)] "Storage of hazardous waste" means the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed, or stored elsewhere.

(197) [(196)] "Sump" means any pit or reservoir that meets the definition of tank and those troughs/trenches connected to it that serves to collect hazardous waste for transport to hazardous waste management units.

(198) [(197)] "Surface impoundment" see "hazardous waste site or facility - surface impoundment", and "solid waste site or facility - surface impoundment".

(199) [(198)] "Tank" see "hazardous waste site or facility - tank" or "solid waste site or facility - tank".

(200) [(199)] "Tank system" see "hazardous waste management unit - hazardous waste tank - tank system" or "solid waste sites or facility - tank system".

(201) [(200)] "Technical application" see "application - technical application".

(202) [(201)] "Termination" shall have the meaning specified in KRS 224.005 [means the final actions taken by the cabinet as to a solid waste or hazardous waste treatment, storage or disposal site or facility when formal responsibilities for postclosure monitoring and maintenance cease (KRS 224.005)].

(203) [(202)] "Thermal treatment" means the treatment of hazardous waste in a device which uses elevated temperatures as the primary means to change the chemical, physical, or biological character or composition of the hazardous waste. Examples of thermal treatment processes are incineration, molten salt, pyrolysis, calcination, wet air oxidation, and microwave discharge (see also "incinerator" and "open burning").

(204) [(203)] "Thermal treatment facility" see "hazardous waste site or facility - thermal treatment facility."

(205) [(204)] "Totally enclosed treatment facility" see "hazardous waste site or facility - totally enclosed treatment facility."

(206) [(205)] "Transfer facility" means any transportation related facility including loading docks, parking areas, storage areas, and other similar areas where shipments of hazardous or solid waste are held during the normal course of transportation.

(207) [(206)] "Transport vehicle" means a motor vehicle or rail car used for the transportation of cargo by any mode. Each cargo-carrying body (trailer, railroad freight car, etc.) is a separate transport vehicle.

(208) [(207)] "Transportation" shall have the meaning specified in KRS 224.005 [means any off-site movement of waste by any mode, and any loading, unloading, or storage incidental thereto (KRS 224.005)].

(209) [(208)] "Transporter" means a person engaged in the off-site transportation of hazardous waste by air, rail, highway or water.

(210) [(209)] "Treatment" shall have the meaning specified in KRS 224.005 [means any method, technique, or process including neutralization, designed to change the physical, chemical, or biological character or composition of any waste so as to neutralize such waste or so as to render such waste nonhazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous (KRS 224.005)].

(211) [(210)] "Treatment facility" see "hazardous waste site or facility - treatment facility."

(212) [(211)] "Treatment zone" means a soil area of the unsaturated zone of a land treatment unit within which hazardous constituents are degraded, transformed, or immobilized.

(213) [(212)] "Trenching or burial operation" means the placement of sewage sludge or septic tank pumpings in a trench or other natural or manmade depression and the covering with soil or other suitable material at the end of each operating day such that the waste does not migrate to the surface.

(214) [(213)] "Underground drinking water source" means:

(a) An aquifer supplying drinking water for human consumption; or

(b) An aquifer in which the groundwater contains less than 10,000 mg/l total dissolved solids.

(215) [(214)] "Underground injection" means the subsurface emplacement of fluids through a bored, drilled or driven well; or through a dug well, where the depth of the dug well is greater than the largest surface dimension. (See also "hazardous waste site or facility, injection well.")

(216) [(215)] "Underground tank" see "hazardous waste management unit - hazardous waste tank - underground tank" or "solid waste site or facility - tank - underground tank".

(217) [(216)] "Unsaturated zone (zone of aeration)" means that region of the soil or rock between the land surface and the nearest saturated zone in which the interstices are occupied partially by air.

(218) [(217)] "Unfit for use" see "hazardous waste management unit - hazardous waste tank - unfit for use" or "solid waste site or facility - tank - unfit for use".

(219) [(218)] "Unit" see "solid waste site" or "facility - unit".

(220) [(219)] "Uppermost aquifer" means the geologic formation nearest the natural ground surface that is an aquifer, as well as lower aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary.

(221) [(220)] "Used or reused" see Section 1 of 401 KAR 31:010.

(222) [(221)] "Vapor recovery system" means that equipment, device, or apparatus capable of collecting vapors and gases discharged from a storage tank, and a vapor processing system capable of affecting such vapors and gases so as to prevent their emission into the atmosphere.

(223) [(222)] "Vessel" includes every description of watercraft used or capable of being used as a means of transportation on the water.

(224) [(223)] "Washout" means the carrying away of waste by waters of the base flood.

(225) [(224)] "Waste" shall have the meaning specified in KRS 224.005. [means:]

[(a) "Solid waste" means any garbage, refuse, sludge and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining (excluding coal mining wastes, coal mining by-products, refuse and overburden) and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved material in irrigation return flows or industrial discharges which are point sources subject to permits under section 402 of the federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923) (KRS 224.005);]

[(b) "Hazardous waste" means any discarded material or material intended to be discarded or substance or combination of such substances intended to be discarded, in any form which because of its quantity, concentration or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed; nothing in this chapter shall be construed to apply to any activity or substance which is subject to the federal Atomic Energy Act of 1954, as amended (68 Stat. 923) except as provided in KRS 224.867.]

(226) [(225)] "Waste boundary" means:

(a) The outermost perimeter of the waste (projected in the horizontal plane) as it would exist at completion of the disposal activity; or

(b) An alternative boundary for a solid waste disposal facility which may be used in lieu of paragraph (a) when the cabinet finds that such a change would not result in the contamination of groundwater which may be needed or used for human consumption. Such a finding shall be based on an analysis and consideration of all the factors identified in the following subparagraphs of this paragraph that are relevant:

1. The hydrogeological characteristics of the facility and surrounding land including any natural attenuation and dilution characteristics of the aquifer;

2. The volume and physical and chemical characteristics of the leachate;

3. The quantity, quality, and direction of flow of groundwater underlying the facility;

4. The proximity and withdrawal rates of groundwater users;

5. The availability of alternative drinking water supplies;

6. The existing quality of the groundwater, including other sources of contamination and their cumulative impacts on the groundwater; and

7. Public health, safety, and welfare effects.

(227) [(226)] "Waste facility" means a hazardous waste site or facility or a solid waste site or facility.

(228) [(227)] "Waste management district"

shall have the meaning specified in KRS 224.005 [means any county or group of counties electing to form under the provisions of KRS 109.071 and operate in conformance with the provisions of KRS Chapter 109 and with Section 4006, Resource Conservation and Recovery Act of 1976, as amended (P.L. 94-580) (KRS 224.005)].

(229) [(228)] "Waste pile" see either "hazardous waste site or facility - pile" or "solid waste site or facility - pile".

(230) [(229)] "Wastewater treatment unit" see "hazardous waste site or facility - wastewater treatment unit" or "solid waste site or facility - wastewater treatment unit".

(231) [(230)] "Water (bulk shipment)" means the bulk transportation of hazardous waste which is loaded or carried on board a vessel without containers or labels.

(232) [(231)] "Water" or "waters of the Commonwealth" shall have the meaning specified in KRS 224.005 [means and includes any and all rivers, streams, creeks, lakes, ponds, impounding reservoirs, springs, wells, marshes and all other bodies of surface or underground water, natural or artificial, situated wholly or partly within or bordering upon the Commonwealth or within its jurisdiction (KRS 224.005)].

(233) [(232)] "Well" means any shaft or pit dug or bored into the earth, generally of cylindrical form, and often walled with bricks or tubing to prevent the earth from caving in.

(234) [(233)] "Wetlands" means land that has a predominance of hydric soils and is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions, where:

(a) "Hydric soils" means soils that, in their undrained condition, are saturated, flooded, or ponded long enough during a growing season to develop an anaerobic condition that supports the growth and regeneration of hydrophytic vegetation.

(b) "Hydrophytic vegetation" means a plant growing either in water, or in a substrate that is at least periodically deficient of oxygen during a growing season as a result of excessive water content.

(235) [(234)] "Zone of engineering control" means an area under the control of the owner/operator that upon detection of a hazardous waste release, can be readily cleaned up prior to the release of hazardous waste or hazardous constituents to waters of the Commonwealth.

(236) [(235)] "Zone of incorporation" means the depth to which the soil on a landfarm is plowed, tilled, or otherwise designed to receive waste.

Section 2. Acronyms and Abbreviations. The acronyms and abbreviations used in 401 KAR Chapters 30 through 49 can be found in Table 1.

Table 1. Acronyms and Abbreviations

Am.	Amended
C	Corrosive waste
CAA	Clean Air Act
CFR	Code of Federal Regulations
cm_2	Centimeter
cm^2	Centimeter squared
CO	Carbon monoxide
CO_2	Carbon dioxide
CWA	Clean Water Act
DOT	United States Department of Transportation
DRE	Destruction and removal efficiency
E	Explosive waste
eff.	Effective
EPA	United States Environmental Protection Agency
EP Toxicity	Extraction procedure toxicity
FIA	Federal Insurance Administration
FR	Federal Register
H	Acutely hazardous waste
ha	Hectare
I	Ignitable waste
KAR	Kentucky Administrative Regulation
kg	Kilogram
KPDES	Kentucky Pollution Discharge Elimination System
KRS	Kentucky Revised Statute
Ky.R.	Administrative Register of Kentucky
l	Liter
LC	Lethal concentration
LD	Lethal dose
ml	Milliliter
mm	Millimeter
N	Normal
NESHAPS	National Emissions Standards for Hazardous Air Pollutants
NPDES	National Pollutant and Discharge Elimination System
PCB	Polychlorinated biphenyl
pCi/l	Picocuries per liter
PHC	Principal hazardous constituent
Permit POHC	Permitted principal organic hazardous constituent
POHC	Principal organic hazardous constituent
ppm	parts per million
Trial POHC	Trial burn principal organic hazardous constituent
POTW	Publicly owned treatment works
PSD	Prevention of significant deterioration
psi	Pounds per square inch
psig	Pounds per square inch gauge
R	Reactive waste
RCRA	Resource Conservation and Recovery Act, as amended (P.L. 94-580)
SDWA	Safe Drinking Water Act
SEC	Securities and Exchange Commission
SIC	Standard Industrial Classification Code
SPCC	Spill Prevention, Control, and Countermeasures Plan
T	Toxic waste
UIC	Underground Injection Control
UICP	Underground Injection Control Program
USC	United States Code
USEPA	United States Environmental Protection Agency
USPS	United States Postal Service

Section 3. References. The test methods cited in Title 401, Chapters 30 through 49, are those listed in 40 CFR Part 260.11 as of October 27, 1987, Appendix X of 40 CFR 261 as of January 14, 1985, and Appendix I of 40 CFR 268 as of June 4, 1987.

CARL H. BRADLEY, Secretary
FRANK DICKERSON, Commissioner
APPROVED BY AGENCY: March 20, 1991
FILED WITH LRC: March 21, 1991 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on May 29, 1991, at 10 a.m. at the Capital Plaza Tower, Ground Floor Auditorium. Individuals interested in being heard at this hearing shall notify this agency in writing by May 24, 1991, 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. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation to the contact person: Susan C. Bush, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Susan C. Bush

(1) Type and number of entities affected: This regulation affects all waste facilities and generators by defining terms used in 401 KAR Chapters 30 through 49.

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

1. First year: This regulation has no economic effect. It provides definitions for the hazardous and solid waste programs and is included for informational purposes.

2. Continuing costs or savings: There are no continuing costs or savings.

3. Additional factors increasing or decreasing costs (note any effects upon competition): This regulation has no economic effect. It is for informational purposes only.

(b) Reporting and paperwork requirements: There are no reporting or paperwork requirements.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: There are no direct or indirect costs or savings to the promulgating administrative body. The regulation contains definitions supplied for informational purposes only.

1. First year: There are no direct or indirect costs or savings to the promulgating administrative body. The regulation contains definitions supplied for informational purposes only.

2. Continuing costs or savings: There are no continuing costs or savings.

3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: There are no reporting or paperwork requirements.

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from the promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) The proposed amendments are streamlining several definitions of solid waste sites and facilities by removing accepted and restricted wastes from the definition. These waste requirements can be found in 401 KAR 47:080. Statutory definitions appearing in this regulation are being removed to comply with KRS Chapter 13A. A new definition for "processed tires" is added based on the requirements outlined in HB 32 concerning waste tires.

Alternative: 1. Less stringent. The cabinet cannot be less stringent than the requirements set forth in state statutes, or federal regulations.

2. More stringent. The cabinet cannot be more stringent than the requirements set forth in state statutes.

3. Present proposal. The present proposal adequately defines essential terms used in connection with the waste management regulations.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no statute, administrative regulation or government policy in conflict with the proposed regulation.

(a) Necessity of proposed regulation if in conflict: There is no conflict.

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

(6) Any additional information or comments: There is no additional information.

TIERING: Was tiering applied? Yes. The definitions are tiered by identifying waste management entities and terms. Definitions are used throughout the waste management regulations to tier the regulatory requirements according to the type of waste and facility.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. There is no federal mandate. The proposed amendments remove accepted and restricted waste types from the definitions of certain solid waste sites and facilities. These requirements are being expanded and are found in 401 KAR 47:080.

2. State compliance standards. The proposed amendments are being done to remove accepted and restricted waste types from the definitions of certain solid waste sites and facilities. These technical requirements are found in 401 KAR 47:080. Statutory definitions appearing in this regulation are being removed to comply with KRS Chapter 13A. A new definition for "processed tires" is added based on the requirements outlined in HB 32 concerning waste tires.

3. Minimum or uniform standards contained in the federal mandate. There is no federal mandate.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? There is no federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. There is no federal mandate.

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

401 KAR 47:080. Classification of solid waste sites or facilities.

RELATES TO: KRS 224.005 through 224.110, 224.2502, 224.2611 through 224.2637, 224.830

through 224.888, 224.994

STATUTORY AUTHORITY: KRS Chapter 13A, 224.033, 224.842

NECESSITY AND FUNCTION: KRS Chapter 224 requires the cabinet to adopt rules and regulations for the management, processing, and disposal of solid wastes. KRS 224.842 requires that persons engaging in the storage, treatment, recycling, and disposal of solid waste obtain a permit. This chapter establishes the permitting standards for solid waste sites or facilities, the standards applicable to all solid waste sites or facilities, and the standards for certification of operators. This regulation sets forth the classification of solid waste sites or facilities for permitting purposes.

Section 1. Coverage. The permit regulations of 401 KAR Chapter 47 establish provisions for the solid waste permit program under KRS Chapter 224. The regulations of this chapter cover the basic permitting requirements, including application requirements, standard permit conditions, a presiting procedure, construction, modification, monitoring and reporting of any facility that manages solid waste. The regulations of this chapter are part of a regulatory scheme implementing the solid waste provisions of KRS Chapter 224. The solid waste permit program relies upon technical requirements which are contained in 401 KAR Chapter 48. The technical regulations are used by the cabinet to determine what conditions are applicable to each permit and to determine compliance with KRS Chapter 224. Regulations governing solid waste planning are set forth in 401 KAR Chapter 49 and the enforcement and compliance monitoring requirements in 401 KAR Chapter 40.

Section 2. Permit Types. This chapter provides for several types of solid waste site or facility permits which are classified based on the waste managed and the facility type.

(1) Contained landfill permit. Contained landfill is the category of solid waste site or facility which may accept for disposal all nonhazardous solid waste including residential, commercial, institutional, industrial, nonhazardous ash and other by-products of combustion from solid waste incinerators, [and] municipal waste, processed [shredded] tires, household hazardous waste, limited quantity generator hazardous waste and nonhazardous spill cleanup residue. A contained landfill shall not accept nonprocessed tires or lead-acid batteries for disposal. The technical requirements for contained landfills are found in 401 KAR 48:050 and 401 KAR 48:070 through 401 KAR 48:090.

(2) Construction/demolition debris landfill permit. Construction/demolition debris landfill is the category of solid waste site or facility for the disposal of solid waste which results from the construction, remodeling, repair and demolition of structures and roads, and for the disposal of uncontaminated solid waste consisting of vegetation resulting from land clearing and grubbing, utility line maintenance and seasonal and storm-related cleanup. Such waste includes, but is not limited to: bricks, processed [shredded or segmented] tires, concrete and other masonry materials, soil, rock, wood, wall coverings, plaster, drywall, plumbing fixtures, tree stumps, limbs, saw dust, leaves, yard waste, paper, paper products, metals, furniture, insulation, roofing shingles, asphaltic pavement, glass, plastics that are not sealed in a manner that conceals other wastes, electrical wiring and components containing no liquids or hazardous metals that are incidental to any of the above and other inert waste as approved by the cabinet. Asbestos-containing materials may be accepted only if the permit application includes procedures approved by the cabinet to handle these materials. Construction/demolition debris landfills shall not be for disposal of garbage, electrical fixtures containing hazardous liquids such as fluorescent light ballasts or transformers, PCB-containing waste, hazardous material spill residues, limited quantity generator hazardous waste, lead-acid batteries, any waste regulated by 401 KAR Chapter 31 and 32, whole tires, liquids, drums, fuel tanks, or other nonpermitted waste. The technical requirements for construction/demolition debris landfills are found in 401 KAR 48:050 and 401 KAR 48:060.

(3) Residual landfill permit. Residual landfill is the category of solid waste site or facility designed and operated to accept for disposal a limited number of industrial wastes or residues which are fully characterizable. It also includes residuals from air and water pollution control devices and energy generation which are codisposed in a mining operation. In addition, residual landfills may accept sludge, and special wastes. The technical requirements for residual landfills are found in 401 KAR 48:050 and 401 KAR 48:170. Residual landfills shall not accept nonprocessed tires or lead-acid batteries for disposal.

(4) Landfarming permit. Landfarming is a category of solid waste site or facility where solid waste is applied to the soil surface or injected into the upper layer of the soil to improve soil quality or provide plant nutrients. Solid wastes suitable for this purpose include, but are not limited to, food processing waste, municipal sewage treatment plant sludge, and municipal water treatment plant sludge. The technical requirements for landfarming facilities are found in 401 KAR 48:200.

(5) Permit-by-rule. Permit-by-rule is a category of solid waste site or facility permit for certain solid waste management practices listed in 401 KAR 47:150 which are deemed to have a permit without the owner or operator having made application to the cabinet. The practices and conditions of the permit-by-rule are specified in Section 1 of 401 KAR 47:150 and include [limited tire disposal,] on-site disposal of land clearing wastes, on-site disposal of construction and demolition wastes, sawdust piles, pumpings, oil production brine pits, gas and oil drilling, mud pits, and asphalt residues, waste piles, surface impoundments with a KPDES permit, automobile and truck recycle and salvage yards, beneficial reuse of solid wastes.

(6) Registered permit-by-rule.

(a) Registered permits-by-rule are a category of solid waste site or facility permit providing for the storage, treatment and disposal of solid waste that includes:

1. Commercial recycling centers;
2. Transfer stations;
3. Construction/demolition debris landfills of one (1) acre or less, when the wastes are not disposed at the site of generation;
4. Solid waste incinerators that have a rated

capacity of more than one (1) ton per day including those using refuse derived fuel;

5. Sludge giveaway programs, composted sludge and other composted material programs in accordance with 401 KAR 48:200;

6. Landfarming of class I sludges in accordance with 401 KAR 48:200;

7. Septic tank pumpings if in compliance with the Cabinet for Human Resources regulations and the waste is not applied to within three (3) feet of the surface of the land unless a method to reduce pathogens has been utilized in accordance with 401 KAR 48:200; [and]

8. Convenience centers; and

9. More than 100 waste tires temporarily stored at the point of generation, a processing or disposal facility, or an intermediate collection point. If more than 500 waste tires are stored, they shall only be retained for up to ninety (90) days under a registered permit-by-rule.

(b) Owners and operators of a registered permit-by-rule site or facility are deemed to have a permit without further action by the cabinet. Owners and operators of a registered permit-by-rule site or facility shall prevent adverse effects on human health and the environment as identified in 401 KAR 47:030 and implement any necessary corrective action under Section 8 of 401 KAR 48:300.

(c) Operators shall submit a registration on a form prescribed by the cabinet as specified in Section 3 of this regulation, [or] 401 KAR 48:200, or 401 KAR 48:210 and shall operate in accordance with the standards specified in 401 KAR 48:200, 401 KAR 48:210 or 401 KAR 47:110, and 401 KAR 47:030.

(7) Emergency permit. An emergency permit is a category of solid waste site or facility permit for the short-term storage or disposal of solid waste generated from a storm or flood event or other emergency as specified by the cabinet. The requirements for emergency permits are found in 401 KAR 47:150.

(8) Research, development and demonstration permit. A research, development and demonstration permit is a category of solid waste site or facility permit issued for a short period to demonstrate unproven technology. The permit procedures for this category can be found in 401 KAR 47:150.

(9) Residential landfill permit. A residential landfill permit is a category of solid waste site or facility construction permit which was issued prior to May 8, 1990 [the effective date of this regulation]. Landfills in this category may continue to operate under the prior issued permit provided they notify the cabinet in accordance with Section 4 of this regulation and comply with the operating standards for contained landfills as specified in 401 KAR 48:090[, or construction/ demolition debris landfills as specified in 401 KAR 48:060]. The facility may close in accordance with Sections 4 and 5 of this regulation or submit an application in accordance with the technical standards in 401 KAR Chapter 48. Residential landfills shall not accept nonprocessed waste tires or lead-acid batteries for disposal.

(10) Inert landfill permit. An inert landfill permit is a category of solid waste site or facility permit which was issued prior to May 8, 1990 [the effective date of this regulation]. Landfills in this category may continue to operate under the prior issued permit provided they notify the cabinet in accordance with Section 4 of this regulation and comply with the operating standards for construction/demolition debris landfills as specified in 401 KAR 48:060 [or residual landfills specified in 401 KAR 48:170]. The facility may close in accordance with Sections 4 and 5 of this regulation or submit an application in accordance with the technical standards of 401 KAR Chapter 48. Inert landfills shall not accept nonprocessed waste tires or lead-acid batteries for disposal.

(11) Waste tire storage permit. A waste tire storage permit is a type of solid waste site or facility permit issued for the temporary storage of more than 500 waste tires that are retained for longer than ninety (90) days. The permit requirements for this category are outlined in 401 KAR 48:210.

Section 3. Notification Procedures for Registered Permit-by-rule Facilities. All solid waste sites or facilities in existence on May 8, 1990, [the effective date of this regulation] that require registered permits-by-rule as specified in Section 2(6) of this regulation shall, no later than October 1, 1990, submit a registration form prescribed in 401 KAR 47:110 except as specified in 401 KAR 48:210, Section 1(2) [by the cabinet].

(1) After submission of the registration form, the cabinet shall acknowledge receipt in writing. Facility owners or operators with registered permits-by-rule shall comply with the environmental performance standards of 401 KAR 47:030 and any condition of the registered permit-by-rule specified in 401 KAR 47:110.

(2) The operator of such facilities may continue to operate the facility without further application to the cabinet subject to the conditions specified in 401 KAR 47:110.

(3) Existing facilities required by this chapter to register with the cabinet which close prior to October 1, 1990, may close without submittal of the registration form.

Section 4. Solid Waste Facilities with Permits Issued Prior to May 8, 1990 [the Effective Date of this Regulation]. (1) Within six (6) months of May 8, 1990 [the effective date of this regulation], any person that possesses a solid waste landfill or landfarming permit issued before May 8, 1990 [the effective date of this regulation] under KRS Chapter 224 shall file a notice with the cabinet which states the operator's intent to close or meet the revised technical requirements by July 1, 1992.

(2) After July 1, 1992, no person shall operate a solid waste landfill or landfarming facility unless one (1) of the paragraphs of this subsection is satisfied and the owner or operator has complied with subsection (1) of this section:

(a) The facility, owner or operator possesses a permit issued under 401 KAR Chapters 47 and 48;

(b) The facility, owner or operator possesses a permit modified to meet the technical standards of 401 KAR Chapter 48;

(c) An application for a permit modification which addresses each of the applicable technical standards for closure or conversion to a different classification under 401 KAR Chapters 47 and 48 has been filed with the cabinet within twelve (12) months of May 8, 1990, [the effective date of this regulation] and the cabinet has not yet rendered a decision with

respect to the complete application; or

(d) The facility, owner or operator has requested and received approval from the cabinet in accordance with subsection (3) of this section.

(3) Residential and contained landfills with permits issued prior to May 8, 1990, [the effective date of this regulation] may operate until July 1, 1995, if the owner or operator complies with:

(a) Subsections (1), (2), and (5) of this section;

(b) The construction quality control plan which has been approved by the cabinet or meets the requirements of 401 KAR 48:080, Section 4 to document the existence or placement of:

1. At least twelve (12) inches of soil with a maximum permeability of 1×10^{-7} centimeters per second or its equivalent;

2. A leachate collection system installed in a manner approved by the cabinet;

3. A groundwater monitoring system meeting the requirements of 401 KAR 48:300; and

(c) The installation of scales and equipment as specified in 401 KAR 48:070, Sections 6 and 13.

(4) Solid waste sites or facilities with permits issued prior to May 8, 1990, [the effective date of this regulation] may close prior to July 1, 1992, under the closure requirements specified in Section 5 of this regulation without complying with the requirements of 401 KAR Chapter 48 provided:

(a) The permittee has provided the notice as required in subsection (1) of this section;

(b) The permittee has provided a complete closure plan which complies with the closure requirements of Section 5 of this regulation is submitted to the cabinet within twelve (12) months of May 8, 1990, [the effective date of this regulation] or one (1) year prior to last intended receipt of waste whichever occurs first;

(c) The operator maintains a valid operating permit including the bond required by KRS 224.846 prior to and during closure; and

(d) The groundwater monitoring data for the facility includes the parameters listed in 401 KAR 48:300, Section 11.

(e) The owner or operator performs corrective action if required under 401 KAR 48:300.

(5) Residential and inert landfills permitted prior to May 8, 1990, [the effective date of this regulation] shall comply with the following operating requirements:

(a) Residential landfills shall meet the operating requirements for contained landfills in 401 KAR 48:090 or construction/demolition debris landfills in 401 KAR 48:060.

(b) Inert landfills shall meet the operating requirements for construction/demolition debris landfills in 401 KAR 48:060 or residual landfills in 401 KAR 48:170.

(6) No placement of the low permeability soil liner component shall be initiated at any landfill, or portion thereof, unless it meets the requirements of subsection (7) of this section or 401 KAR Chapters 47 and 48.

(7) Operation may be authorized for any portion of a residential landfill in accordance with Section 4(3) of this regulation for which a low permeability soil liner has [component had] been approved prior to placement [January 16, 1990]. Any soil construction shall be certified using the requirements of Section 4 of 401 KAR 48:080.

Section 5. Closure Requirements for Sites Closing under Section 4(1) of this Regulation. (1) Residential landfills, contained landfills and inert landfills permitted prior to May 8, 1990, [the effective date of this regulation,] closing pursuant to the notice in Section 4(1) of this regulation, shall comply with the following:

(a) All records shall be submitted to the cabinet;

(b) A closure plan shall be submitted to the cabinet that shall contain the following requirements:

1. A description of the access controls;

2. A description of the covering activities and procedures including frequency of cover, total volume and source of borrow material available, and total estimated volume and source of cover required (final, daily and interim);

3. The proposed revegetation program, including provisions for liming, fertilization, seed types and seeding schedule, erosion control during early growth period, and interim cover vegetation program;

4. A final cover maintenance program covering the entire site and lasting two (2) years beyond closure, to include erosion control, reseeding, refertilization and growth control; and

5. A detailed plan for closure of the landfill in accordance with KRS 224.846 along with an estimate of closure costs; and

(c) Closure requirements.

1. Those areas of a landfill that shall receive no additional deposits of solid waste within 365 days of the last placement of waste shall receive final cover. A minimum final cover of two (2) feet shall be required in addition to any daily and interim cover required. All contained and residential landfills shall have the lower six (6) inches of the final cap contain soil with a permeability of 1×10^{-7} centimeters per second;

2. Before earth-moving equipment is removed from the site, an inspection of the entire site shall be made by an authorized representative of the cabinet to determine compliance with approved plans and specifications. The owner or operator shall submit a closure schedule based on the approved closure plan thirty (30) days prior to the last intended use of a solid waste facility;

3. Final cover shall be graded as provided in the approved closure plan in a manner to prevent ponding. For a period of two (2) years, the surface of final cover shall be maintained at the proper elevation as specified in the approved closure plan;

4. Final cover shall be revegetated. After grading, final cover shall be fertilized as necessary, seeded, and/or planted with legumes, perennial grasses or other vegetation according to the approved closure plan. The owner or operator shall be required to repeat this process until adequate vegetation is obtained to ensure soil stabilization as specified in the approved closure plan;

5. Other necessary corrective work required by the cabinet, if any, shall be performed before the landfill is accepted as closed and financial responsibility funds released;

6. The owner or operator of a residential or contained landfill shall record a notice that shall in perpetuity notify any potential purchaser of the property of the location and time of operation of the facility, and a

statement that future disturbance of this area shall only occur after an examination of potential gas or leachate migration problems. Such notice shall be recorded in accordance with state property law prior to acceptance of final closure of the landfill.

(2) Landfarming facilities permitted prior to May 8, 1990, [the effective date of this regulation] closing under Section 4(1) of this regulation shall comply with the following:

(a) All records shall be submitted to the cabinet; and

(b) Food chain crops restrictions of 401 KAR 47:030 shall be met including deed notice if applicable.

(3) Residual landfills permitted prior to May 8, 1990, [the effective date of this regulation] closing under Section 4(1) of this regulation, shall comply with the following:

(a) The closure plan shall specify the function and design of the final cover for the facility. The closure design shall assure compliance with the applicable environmental performance standards in 401 KAR 47:030 and shall reflect consideration of:

1. The type and amount of waste in the facility;

2. The mobility and expected rates of migration of the waste;

3. The site location, topography and surrounding land use, and final site use;

4. The climatic conditions in the area;

5. The characteristics of the cover material including erodibility, slope, length of run of slope, and type of vegetation on the cover; and

6. The geological and soil profiles and surface and subsurface hydrology of the site.

(b) All records shall be submitted to the cabinet.

(c) Closure requirements.

1. A residual landfill shall be closed in a manner that shall assure compliance with the environmental performance standards in 401 KAR 47:030. The closure shall include the placement of a final cover over the facility as specified in the approved design of the site;

2. Any necessary corrective work required by the cabinet shall be performed before the residual landfill is accepted as closed and financial responsibility funds released;

3. The owner or operator of a residual landfill shall record a notice that shall in perpetuity notify any potential purchaser of the property of the location and time of the operation of the facility, nature of the waste placed in the site and a caution against future disturbance of the area. Such notice shall be recorded in accordance with state property law prior to acceptance of final closure of the landfill; and

4. Closure care maintenance. A residual landfill shall be maintained for two (2) years following the closure of the site in a manner that complies with the environmental performance standards in 401 KAR 47:030 and in accordance with any approved closure care monitoring and maintenance plan approved by the cabinet.

Section 6. Solid Waste Facility Applications Pending on May 8, 1990 [the Effective Date of This Regulation]. (1) Unless the provisions of subsection (3) of this section are applicable, applications pending as of May 8, 1990, [the effective date of this regulation] shall be revised to meet all requirements of 401 KAR Chapters 47 and 48 prior to being determined technically complete.

(2) Applications that have been determined to be administratively complete prior to May 8, 1990, [the effective date of this regulation] and have published the notices required by KRS 224.855 shall complete the public information process commencing with Section 12(3) of 401 KAR 47:140.

(3) Applications for solid waste sites or facilities upon which a preliminary determination was made and a hearing pursuant to KRS 224.081 commenced prior to May 8, 1990, [the effective date of this regulation] shall be subject to and reviewed in accordance with the procedural and substantive requirements in effect at the time the preliminary determination was made if prior to May 8, 1990, [the effective date of this regulation] the proposed solid waste site or facility had completed construction pursuant to a permit issued by the cabinet. In the event an application processed under this subsection results in issuance of a permit, the permit shall thereafter be subject to all provisions of these regulations applicable to permits issued prior to May 8, 1990 [the effective date of these regulations].

CARL H. BRADLEY, Secretary
FRANK DICKERSON, Commissioner
APPROVED BY AGENCY: March 20, 1991
FILED WITH LRC: March 21, 1991 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on May 29, 1991, at 10 a.m. at the Capital Plaza Tower, Ground Floor Auditorium. Individuals interested in being heard at this hearing shall notify this agency in writing by May 24, 1991, 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. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation to the contact person: Susan C. Bush, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Susan C. Bush

(1) Type and number of entities affected: This regulation affects all sites or facilities engaging in the management, processing, or disposal of solid waste. The proposed amendments affect individuals disposing of waste tires, lead-acid batteries, and nonhazardous ash and other by-products of combustion from solid waste incinerators.

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

1. First year: The most significant cost will occur at landfills that choose to accept waste tires. They will need to purchase processing equipment that varies in cost. Reclassification of waste tire piles into a permit category will restrict storage of more than 100 waste tires except at the point of generation, at a collection point, or at a processing or disposal facility. Individuals who randomly store more than 100 waste tires will be required to remove

them and process them for disposal. The cost associated with this action will depend on the size of the waste tire pile.

2. Continuing costs or savings: Although the initial investment is significant, landfill owners will charge a fee for accepting the waste tires for processing and disposal which will more than offset the initial investment. The cost of waste tire disposal will increase.

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: Owners of waste tire piles qualifying for a registered permit-by-rule will be required to register with the cabinet. Quarterly reporting will also be required. Owners of waste tire piles qualifying for a waste tire storage permit will be required to register for a full permit. Quarterly reporting will be required.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The agency will experience costs in reviewing and acting on registrations for registered permit-by-rules, and applications for storage permits. Additional staff time will be used for processing quarterly reports.

2. Continuing costs or savings: The first year costs will continue.

3. Additional factors increasing or decreasing costs: The cabinet will also be involved in monitoring and enforcing illegal waste tire piles.

(b) Reporting and paperwork requirements: The cabinet will experience an increase in the volume of registrations for registered permit-by-rule applications, applications for full storage permits, and quarterly reports for such facilities. Landfill owners will need to apply for a permit modification to store tires for processing.

(3) Assessment of anticipated effect on state and local revenues: There is no anticipated effect on state or local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) The proposed amendments are in response to House Bill 32 concerning waste tires, and House Bill 34 concerning disposal of lead-acid batteries. Language is also added in response to Executive Order 90-68 to clarify that nonhazardous ash and other by-products of combustion from solid waste incinerators must be disposed of in a contained landfill.

Alternative: 1. Less stringent. The cabinet cannot be less stringent than the requirements set forth in state statutes.

2. More stringent. The cabinet cannot be more stringent than the requirements set forth in state statutes.

3. Present proposal. The proposed amendment establishes permit classification for various waste tire piles, and restricts the disposal of waste tires in landfills unless they are processed (cut, segmented or shredded). It also bans lead-acid batteries from disposal in landfills. It clarifies that nonhazardous ash and other by-products of combustion from solid waste incinerators shall be disposed of at contained landfills. Minor transition landfill requirements have been clarified.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no statute, administrative regulation or government policy in conflict.

(a) Necessity of proposed regulation if in conflict: There is no conflict.

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

(6) Any additional information or comments: There are no additional comments.

TIERING: Was tiering applied? Yes. The regulations of 401 KAR Chapters 47 and 48 use multiple tiering systems. Permit-by-rule in 401 KAR 47:150, and registered permit-by-rule in 401 KAR 47:110, give certain practices and management activities a method of avoiding full permits. Emergency permits and research, development, and demonstration permits in 401 KAR 47:150 provide permitting mechanisms for certain situations. The solid waste landfills (contained, residual, and construction/demolition debris) and the three classes of landfarming provide for a tiering mechanism based on the type and quality of the waste received.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. There is no federal mandate. The proposed amendments are in response to HB 32 (KRS 224.2611-224.2637) concerning waste tires, and HB 34 (KRS 224.2502) concerning lead-acid batteries.

2. State compliance standards. The proposed amendments establish permit classifications for various waste tire piles and require that waste tires be processed (cut, shredded, or segmented) prior to disposal; restricts lead-acid batteries from being disposed of in a landfill; and clarifies that nonhazardous ash and other by-products of combustion from solid waste incinerators must be disposed of in contained landfills.

3. Minimum or uniform standards contained in the federal mandate. There is no federal mandate.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? There is no federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. There is no federal mandate.

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

401 KAR 47:110. Registered permit-by-rule.

RELATES TO: KRS 224.005 through 224.110, 224.2611 through 224.2637, 224.830 through 224.888, 224.994

STATUTORY AUTHORITY: KRS Chapter 13A, 224.033, 224.842

NECESSITY AND FUNCTION: KRS Chapter 224 requires the cabinet to adopt rules and regulations for the management, processing, and disposal of wastes. KRS 224.842 requires that

persons engaging in the management, processing, and disposal of waste obtain a permit. This chapter establishes the permitting standards for solid waste sites or facilities, the standards applicable to all solid waste sites or facilities, and the standards for certification of operators. An overview of the permit program is found in Section 1 of 401 KAR 47:080. This regulation establishes requirements for registered permits-by-rule.

Section 1. Registered Permit-by-rule. (1) Any [owner or operator of a] solid waste site or facility specified in Section 2(6) of 401 KAR 47:080 in existence as of May 8, 1990 for which the required registration was submitted [the effective date of this regulation shall notify the cabinet by submitting registration] before October 1, 1990, and subsequently approved by the cabinet, [on a form prescribed by the cabinet. Then the facility] shall be deemed to have a registered permit-by-rule if the owner or operator complies with the environmental performance standards in 401 KAR 47:030.

(2) When the cabinet determines upon examination or reexamination of the registration that it fails to include all of the required information, the cabinet shall notify the operator that the registration is deficient and that the operator shall submit the requested information. The owner or operator shall be subject to enforcement procedures for not submitting the requested information in a timely fashion. Failure to complete the form in a timely fashion is not grounds to revoke a registered permit-by-rule.

(3) Subsection (1) of this section shall not apply to any facility which has been previously denied a permit or to any facility whose authority to operate under 401 KAR Chapters 47 through 48 and KRS Chapter 224 has been previously terminated.

Section 2. Operation During a Registered Permit-by-rule. (1) A facility operating under a registered permit-by-rule, except as provided in Section 3 of this regulation, shall not:

(a) Store, treat or dispose of solid waste not specified in the registration form; or

(b) Exceed the design capacities specified in the registration form.

(2) The owner or operator shall comply with the environmental performance standards in 401 KAR 47:030.

(3) The owner or operator shall keep records of the amount, sources and types of municipal solid waste and waste tires received, and other information as required by the cabinet and shall submit a quarterly summary of this information to the cabinet. The quarterly report shall be on the [a] form incorporated by reference in Section 4 of this regulation. The quarterly report form shall be submitted to the cabinet no later than the 15th of the month following the end of each quarter. Reporting quarters shall end on March 31, June 30, September 30, and December 31 of each year. [approved by the cabinet.

(4) Convenience centers, transfer stations, solid waste incinerators, and commercial recyclers shall additionally submit a report to the cabinet annually, no later than January 31st for the previous year. The annual report incorporated by reference in Section 4 of this regulation shall identify the sources and quantities of waste handled. Additionally, solid waste incinerators shall report volume of ash and the results of weekly [extraction procedure] tests, outlined in 401 KAR 31:110, on the ash.

(5) The owner or operator of a construction/demolition debris landfill of one (1) acre or less that accepts waste tires for disposal shall:

(a) Chip or shred the waste tires prior to disposal; or

(b) Use another processing method approved by the cabinet and apply daily cover as specified in 401 KAR 48:090, Section 3(1).

(6) The owner or operator of a construction/demolition debris landfill of one (1) acre or less shall cover the landfill at the time of closure with thirty-six (36) inches of soil suitable to support vegetative growth.

(7) The owner or operator of a transfer station or convenience center that receives fifty (50) or more tons of waste per day, shall weigh all incoming waste for a minimum of one (1) week each quarter. The results shall be recorded and reported to the cabinet quarterly. The quarterly report form is incorporated by reference in Section 4 of this regulation.

Section 3. Changes to a Registered Permit-by-rule. (1) Solid wastes not previously identified in the registration may be stored, treated, or disposed at a facility if the owner or operator submits a revised registration prior to such a change.

(2) The owner or operator shall submit a revised registration prior to increases in the design capacity of processes used at a facility.

(3) The owner or operator shall submit a revised registration prior to changes in the processes for the storage, treatment or disposal of solid waste or use of additional processes.

(4) The owner or operator shall submit a revised registration prior to changes in owners or operators.

(5) Changes listed in subsections (1) through (4) of this section may be implemented prior to cabinet acknowledgment of receipt of the revised registration.

Section 4. Contents of the Registration Form for a Registered Permit-by-rule. The contents of a form prescribed by the cabinet for a registered permit-by-rule shall contain:

(1) A description of the management, processing, or disposal activities;

(2) The name and mailing address of the facility;

(3) A map or site drawing of suitable scale and detail sufficient to accurately define the site or facility location; [The location of the waste site or facility;] and

(4) The type of waste managed at the facility, an estimate of the quantity of such wastes to be managed annually, and a general description of the methods of management for each waste.

(5) The registration forms, annual report forms, and quarterly report forms for registered permit-by-rule facilities are incorporated by reference into this section. These forms became effective January 1991, and are available for copying and inspection from the 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: March 20, 1991
FILED WITH LRC: March 21, 1991 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on May 29, 1991, at 10 a.m. at the Capital Plaza Tower, Ground Floor Auditorium. Individuals interested in being heard at this hearing shall notify this agency in writing by May 24, 1991, 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. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation to the contact person: Susan C. Bush, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Susan C. Bush

(1) Type and number of entities affected: The proposed amendment affects the owners and operators of registered permit-by-rule facilities that dispose of waste tires, transfer stations and convenience centers that receive 50 tons or more waste per day, and construction/demolition debris landfills of one acre or less.

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

1. First year: There is no direct or indirect costs or savings to those affected.

2. Continuing costs or savings: There will be a cost to owners of construction/demolition debris landfills of one acre or less. They will now be required to cover the landfill with 36 inches of soil at the time of closure. The estimated cost to cover a one acre site is approximately $31,000. This estimate is based on soil costing $40 per ton. This cost will decrease for smaller landfills.

3. Additional factors increasing or decreasing costs (note any effects upon competition): Many owners of construction/demolition debris landfills of one acre or less may already be covering their facilities with soil. However, some are not. This minimum requirement has been established to assure safe closure of the site and protection to human health and the environment. The owner or operator of a transfer station or convenience center receiving 50 or more tons of waste per day will be required to weigh all incoming waste for a minimum of one week each quarter. The results must be reported to the cabinet on a quarterly basis.

(b) Reporting and paperwork requirements: The proposed amendment adds waste tires to the type of waste that must be reported quarterly by a registered permit-by-rule facility.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: There is no direct or indirect costs or savings to the promulgating administrative body.

2. Continuing costs or savings: There are no continuing costs or savings.

3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: There are no increased reporting or paperwork requirements.

(3) Assessment of anticipated effect on state and local revenues: There is no anticipated effect on state or local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) The proposed amendment is in response to House Bill 32 concerning waste tires.

Alternative: 1. Less stringent. The cabinet cannot be less stringent than the requirements set mandated by state statutes.

2. More stringent. The cabinet cannot be more stringent than the requirements mandated by state statutes.

3. Present proposal. The proposed amendment adds waste tires to the type of waste that must be reported by a registered permit-by-rule facility. Waste tires are not considered municipal solid waste when generated by a specific industry. Therefore, the reference to waste tires is included to assure the disposal of all waste tires is accounted for at these facilities. 13 forms are incorporated by reference to comply with KRS Chapter 13A. Two additional operating and reporting requirements are included for registered permit-by-rule facilites: (1) construction/demolition debris landfills of one acre or less will be required to cover the landfill with 36 inches of soil at the time of closure, and (2) transfer stations and convenience centers will be required to weigh waste for at least one week each quarter and report the results to the cabinet.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no statute, administrative regulation or government policy in conflict.

(a) Necessity of proposed regulation if in conflict: There is no conflict.

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

(6) Any additional information or comments: There is no additional information.

TIERING: Was tiering applied? Yes. The regulations of 401 KAR Chapters 47 and 48 use multiple tiering systems. Permit-by-rule in 401 KAR 47:150, and registered permit-by-rule in 401 KAR 47:110, give certain practices and management activities a method of avoiding full permits. Emergency permits and research, development, and demonstration permits in 401 KAR 47:150 provide permitting mechanisms for certain situations. The three solid waste landfills (contained, residual, and construction/demolition debris) and the three classes of landfarming provide for a tiering mechanism based on the type and quality of the waste received.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. The proposed amendment is in response to HB 32 concerning waste tires. There is no federal mandate.

2. State compliance standards. The proposed amendment adds waste tires to the type of waste that must be reported by a registered

permit-by-rule facility. Waste tires are not considered municipal solid waste when generated by a specific industry. Therefore, the reference to waste tires is included to assure the disposal of all waste tires is accounted for at these facilities. 13 forms are incorporated by reference to comply with KRS Chapter 13A. 2 additional operating and reporting requirements are included for registered permit-by-rule facilites: (1) construction/demolition debris landfills of one acre or less will be required to cover the landfill with 36 inches of soil at the time of closure, and (2) transfer stations and convenience centers will be required to weigh waste for at least one week each quarter and report the results to the cabinet.

3. Minimum or uniform standards contained in the federal mandate. There is no federal mandate.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? There is no federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. There is no federal mandate.

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

401 KAR 47:150. Special types of permits.

RELATES TO: KRS 224.005 through 224.110, 224.830 through 224.888, 224.994

STATUTORY AUTHORITY: KRS Chapter 13A, 224.033, 224.842

NECESSITY AND FUNCTION: KRS Chapter 224 requires the cabinet to adopt rules and regulations for the management, processing, and disposal of wastes. KRS 224.842 requires that persons engaging in the management, processing, and disposal of waste obtain a permit. This chapter establishes the permitting standards for solid waste sites or facilities, the standards applicable to all solid waste sites or facilities, and the standards for certification of operators. An overview of the permit program is found in Section 1 of 401 KAR 47:080. This regulation sets forth the requirements for permits-by-rule, emergency permits and research, development and demonstration permits.

Section 1. Permit-by-rule. Notwithstanding any other provision of this chapter, the following disposal of certain solid wastes by a practice common to the industry shall be deemed to have a permit-by-rule provided the operation is not in violation of the applicable environmental performance standards of 401 KAR 47:030, does not present a threat of imminent hazard to human health or substantial environmental impact and if the following applicable conditions are met:

(1) Sawdust piles if:

(a) The pile is on the property of the generator; and

(b) The pile does not cause nonpoint pollution of surface water above the water quality standard specified in 401 KAR 5:031.

(2) Disposal of asphalt residue.

(3) Oil production brine pits and gas and oil drilling mud pits, if the operator:

(a) Has a KPDES or NPDES permit; and

(b) Complies with the conditions of the KPDES or NPDES permit.

(4) One (1) time disposal of waste construction material if:

(a) Disposal occurs at the point of generation;

(b) Disposal occurs only during the period of construction;

(c) The wastes do not include any materials that contain leachable hazardous constituents or asbestos; and

(d) The wastes do not include packaging or putrescible wastes.

(5) Disposal of demolition waste on the property where demolition occurs during the period of demolition except for materials containing asbestos.

(6) Disposal of land clearing debris on the property where clearing occurred.

[(7) Disposal of less than 100 tires, shredded tires in a single pile of less than one-fourth (1/4) acre, or tires actively used in agricultural operations.]

(7) [(8)] Waste piles.

(8) [(9)] Automobile and truck recyclers and salvage yards.

(9) [(10)] Surface impoundments with a KPDES permit.

(10) [(11)] Beneficial reuse of solid waste, subject to the restrictions on the beneficial reuse of waste tires pursuant to KRS 224.2631.

Section 2. Emergency Permits. (1) Notwithstanding any other provision of this chapter, in the event the cabinet finds an imminent and substantial endangerment to human health or the environment, the cabinet may issue an emergency permit to allow temporary storage or disposal of solid waste for a nonpermitted facility, thus granting the nonpermitted facility an effective temporary solid waste site or facility permit. However, an emergency permit shall only be issued when the circumstances preclude the processing of a permit of appropriate classification, and the permitted site would not create an endangerment to human health or the environment. Such permits may be for either temporary or permanent disposal.

(2) An emergency permit:

(a) Shall be oral or written. If oral, it shall be followed in five (5) days by a written emergency permit request;

(b) Shall not exceed ninety (90) days in duration;

(c) Shall clearly specify the solid wastes to be received, and the manner and location of treatment, storage, or disposal;

(d) May be unilaterally terminated by the cabinet at any time if the cabinet determines that termination is appropriate to protect human health or the environment;

(e) Shall incorporate to the extent possible and not inconsistent with the emergency situation, all applicable requirements of this chapter and 401 KAR Chapter 48;

(f) Shall specify that all remaining solid waste and residues are removed at the end of the term of the emergency permit to a properly permitted solid waste site or facility in order to be exempted from the technical and financial requirements of 401 KAR Chapter 48; and

(g) Shall specify that failure to comply with the conditions of the emergency permit shall be

grounds for the cabinet to recover the cost of proper closure.

Section 3. Research, Development and Demonstration Permits. (1) The cabinet may issue a research, development and demonstration permit for any solid waste treatment or disposal facility which proposes to utilize an innovative and experimental solid waste technology or process for which permit standards for such experimental activity have not been promulgated under 401 KAR Chapter 48. Any permit shall include such terms and conditions as shall assure protection of human health and the environment. In issuing research, development and demonstration permits the cabinet shall:

(a) Provide for the construction of such facilities as necessary, and for operation of the facility for not longer than one (1) year unless renewed as provided in subsection (4) of this section;

(b) Provide for the receipt, storage and disposal by the facility of only those types and quantities of solid waste that the cabinet deems necessary for purposes of determining the efficiency and performance capabilities of the technology or process and the effects of such technology or process on human health and the environment; and

(c) Include such requirements as the cabinet deems necessary to protect human health and the environment including, but not limited to: monitoring, operation, financial responsibility, closure, remedial action, testing, and reporting.

(2) For the purpose of expediting review and issuance of permits under this section, the cabinet may, consistent with the protection of human health and the environment, modify or waive permit application and permit issuance requirements in 401 KAR Chapter 47 except that there may be no modification or waiver of provisions in KRS Chapter 224 regarding financial responsibility (including insurance) or of procedures regarding public notification.

(3) The cabinet may order an immediate termination of all operations at the facility at any time it is determined that termination is necessary to protect human health and the environment.

(4) Any permit issued under this section shall not be renewed more than three (3) times. Each such renewal shall be for a period of not more than one (1) year.

CARL H. BRADLEY, Secretary
FRANK DICKERSON, Commissioner
APPROVED BY AGENCY: March 20, 1991
FILED WITH LRC: March 21, 1991 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on May 29, 1991, at 10 a.m. at the Capital Plaza Tower, Ground Floor Auditorium. Individuals interested in being heard at this hearing shall notify this agency in writing by May 24, 1991, 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. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation to the contact person: Susan C. Bush, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Susan C. Bush

(1) Type and number of entities affected: The proposed amendment affects individuals who handle waste tires.

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

1. First year: The proposed amendment removes the storage and disposal requirements for small quantities of waste tires from the permit-by-rule classification. Requirements governing small accumulations of waste tires will now be located in 401 KAR 48:210 entitled "Provisions for the storage and disposal of waste tires". The amendment brings the regulation into compliance with the provisions of HB 32, codified at KRS 224.2611 through 224.2637. There is no direct or indirect costs or savings to those affected.

2. Continuing costs or savings: There are no continuing costs or savings.

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: There are no reporting or paperwork requirements.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The cabinet will experience increased activity in the monitoring and enforcement of new waste tire requirements.

2. Continuing costs or savings: First year costs will continue.

3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: There are no additional reporting or paperwork requirements.

(3) Assessment of anticipated effect on state and local revenues: There is no anticipated effect on state or local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) The proposed amendment is in response to House Bill 32 codified at KRS 224.2611 through 224.2637.

Alternative: 1. Less stringent. The cabinet cannot be less stringent than the requirements mandated by state statutes.

2. More stringent. The cabinet cannot be more stringent than the requirements mandated by state statutes.

3. Present proposal. The proposed amendment removes the storage and disposal requirements for small quantities of waste tires from the permit-by-rule classification. Requirements governing small accumulations of waste tires will now be located in 401 KAR 48:210 entitled "Provisions for the storage and disposal of waste tires". The amendment brings this regulation into compliance with HB 32, codified at KRS 224.2611 through 224.2637.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no statute, administrative regulation or government policy in conflict.

(a) Necessity of proposed regulation if in conflict: There is no conflict.

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

(6) Any additional information or comments: There are no additional comments.

TIERING: Was tiering applied? Yes. The regulations of 401 KAR Chapters 47 and 48 use multiple tiering systems. Permit-by-rule in 401 KAR 47:150, and registered permit-by-rule in 401 KAR 47:110, give certain practices and management activities a method of avoiding full permits. Emergency permits and research, development, and demonstration permits in 401 KAR 47:150 provide permitting mechanisms for certain situations. The three types of solid waste landfills (contained, residual, and construction/demolition debris) and the three classes of landfarming provide for a tiering mechanism based on the type and quality of the waste received.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. There is no federal mandate. The proposed regulation is being promulgated in response to HB 32 which has been codified at KRS 224.2611-224.2637.

2. State compliance standards. The proposed amendment removes the storage and disposal requirements for small quantities of waste tires from the permit-by-rule classification. Requirements governing small accumulations of waste tires will now be located in 401 KAR 48:210 entitled "Provisions for the storage and disposal of waste tires". The amendment brings this regulation into compliance with HB 32, codified at KRS 224.2611 through 224.2637.

3. Minimum or uniform standards contained in the federal mandate. There is no federal mandate.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? There is no federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. There is no federal mandate.

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

401 KAR 48:090. Operating requirements for contained landfills.

RELATES TO: KRS 224.005 through 224.110, 224.2502, 224.2611 through 224.2637, 224.830 through 224.888, 224.994

STATUTORY AUTHORITY: KRS Chapter 13A, 224.033, 224.842

NECESSITY AND FUNCTION: KRS Chapter 224 requires the cabinet to adopt rules and regulations for the management, processing, or disposal of solid wastes. KRS 224.842 requires that persons engaging in the management, processing, and disposal of solid waste obtain a permit. This chapter establishes the minimum technical standards for solid waste sites or facilities. This regulation sets forth the requirements for contained landfills.

Section 1. General. The owner or operator of a contained landfill shall operate the facility in accordance with the requirements of KRS Chapter 224 and the regulations promulgated pursuant thereto, the conditions of the solid waste permit issued by the cabinet, and the approved application filed with the cabinet.

Section 2. Procedures for Excluding the Receipt of Hazardous Waste. (1) The owner or operator of a solid waste contained landfill shall implement a program at the facility for detecting and preventing the disposal of regulated hazardous wastes as defined in 401 KAR Chapter 31 and polychlorinated biphenyls (PCB) wastes as defined in 40 CFR Part 761. This program shall include, at a minimum:

(a) Random inspections of incoming loads;

(b) Inspection of suspicious loads;

(c) Records of any inspections;

(d) Training of facility personnel to recognize regulated hazardous waste; and

(e) Procedures for notifying the proper authorities if a regulated hazardous waste is discovered at the facility; and

(f) Employee safety, health, training and equipment to be used in inspection.

(2) The owner or operator shall implement the following additional inspection standards to meet the requirements of subsection (1) of this section:

(a) The owner or operator shall have a program, approved by the cabinet, to inspect all waste entering a contained landfill. The program to exclude hazardous wastes shall include:

1. Random inspections in time, but uniformly distributed to all waste sources based on volume; and

2. Identification data concerning the hauler on the operating inspection record including name of the driver, name of the hauler, address, source, volume, and waste characteristics. The owner or operator shall maintain a record of the inspections in accordance with the approved recordkeeping requirements.

(b) Upon discovery of hazardous waste, the owner or operator of a contained landfill shall isolate the load and notify the cabinet immediately.

Section 3. Cover Material and Disease Vector Control Requirements. (1) Daily cover.

(a) The owner or operator shall place a minimum of six (6) inches of cover over all exposed solid waste at the end of each working day or, for continuously operating landfills, once every twenty-four (24) hours. The purpose of this cover shall be to control disease, fires, blowing litter and disease vectors. The owner or operator shall only use soil or properly weathered or crushed shales, siltstones or other materials as approved by the cabinet;

(b) The daily cover shall not have any protruding waste, except for the occasional litter embedded into the surface, which shall not exceed ten (10) percent of the cover area;

(c) Daily cover shall be compacted upon application and provide positive drainage. The owner or operator shall place daily cover to allow for proper drainage and shall immediately compact and grade the soil;

(d) The owner or operator may remove daily

cover to facilitate the vertical passage of methane gas and leachate and shall recover the exposed areas within eight (8) hours of exposure; and

(e) The owner or operator shall dispose of any daily cover removed under subsection (1)(d) of this section as solid waste.

(2) Interim cover period. The owner or operator shall:

(a) Place an additional six (6) inches of interim cover over any area that shall not receive additional solid waste within thirty (30) calendar days of the last waste placement. With the daily cover applied in accordance with subsection (1) of the section, the additional interim cover shall increase the total cover depth to twelve (12) inches;

(b) On the day waste is to be placed over an area that is covered with daily and interim cover, an owner or operator may remove a maximum depth of six (6) inches of interim cover over the area of the cell for that day's operation;

(c) Place, compact and grade the interim cover to effect proper drainage; and

(d) Apply temporary erosion controls at the time of placing interim cover.

(3) Long term cover. The owner or operator:

(a) Shall apply an additional eighteen (18) inches of long-term cover over all areas that shall not receive additional waste within four (4) months by September 15 of each year. With the daily and interim cover, the total thickness of the cover in these areas shall be thirty (30) inches;

(b) May remove a maximum of eighteen (18) inches of the thirty (30) inches of cover in this subsection within the seven (7) calendar days prior to additional waste placement. The owner or operator may remove remaining soil leaving no less than six (6) inches of daily cover from the daily cell area on the day additional waste is to be placed;

(c) Shall place, compact and grade the long term cover to effect proper drainage; and

(d) Shall complete erosion controls and proper seeding of interim and long-term cover during the fall seeding season.

(4) Final cover. The owner shall initiate the application of final cover:

(a) Within thirty (30) days of filling a completed phase of the landfill to final design grade; and

(b) Annually such that the final cap is in place by September 15 in all areas of the landfill that have reached final grade by August 15 of each year.

(c) An alternate schedule may be approved by the cabinet when construction techniques shall preclude construction by the above referenced dates.

(5) Cover report. The owner or operator shall record, on a form approved by the cabinet, the daily cell locations, and dates of cover applications at the landfill including: daily usage area, daily, interim, long term and final cap installation dates and certification reports.

Section 4. Explosive Gases Control. (1) The owner or operator of a contained solid waste landfill shall ensure that:

(a) The concentration of methane gas generated by the facility does not exceed twenty-five (25) percent of the lower explosive limits (LEL) for methane in facility structures (excluding gas control or recovery system components); and

(b) The concentration of methane gas does not exceed the lower explosive limit for methane at the facility property boundary.

(2) The owner or operator of a contained landfill shall quarterly monitor for explosive gas at the following locations:

(a) Underneath or in the low area of each on-site building;

(b) At locations along the boundary as shown in the permit;

(c) At each gas passive vent installed under the final closure cap;

(d) At any potential gas problem areas, as revealed by dead vegetation or other indicators; and

(e) At any other points required by the permit.

(3) The owner or operator shall record the date, time, location, percent lower explosive limit and other pertinent information on the recordkeeping form approved by the cabinet.

(4) The owner or operator shall install, operate and maintain a gas detector with an alarm set at twenty-five (25) percent of the lower explosive limit in each on-site building.

(5) If methane gas levels exceeding the limits specified in subsection (1) of this section are detected, the owner or operator shall:

(a) Take all necessary steps to ensure immediate protection of human health;

(b) Immediately notify the cabinet of the methane gas levels detected and the immediate steps taken to protect human health; and

(c) Within fourteen (14) days, submit to the cabinet for approval a remediation plan for the methane gas releases. The plan shall describe the nature and extent of the problem and the proposed remedy. The plan shall be implemented upon approval by the cabinet.

Section 5. Air Criteria. (1) The owner or operators of contained landfills shall not permit or engage in open burning of waste. Any open burning shall be immediately extinguished. Wastes that are burning or smoldering shall not be deposited in the fill. Such materials shall be deposited in a hot load area designated in the permit. The cabinet may grant emergency permission to burn in accordance with 401 KAR 47:150. The owner or operator shall follow the plan approved for such purposes.

(2) The owner or operator shall properly control dust on haul roads and other areas to prevent a nuisance to surrounding areas.

Section 6. Access Requirements. (1) The owner or operator of a contained solid waste landfill shall control public access and prevent unauthorized vehicular traffic and illegal dumping of wastes to protect human health and the environment. The owner or operator shall use artificial barriers, natural barriers, or both, as appropriate. Each access point shall be controlled by lockable entrance ways.

(2) The owner or operator shall construct and maintain:

(a) Lockable entrance ways at all access points;

(b) The major access road from a publicly maintained highway to the landfill;

(c) The perimeter road; and

(d) An all-weather road to within 200 feet of the working face.

(3) The owner or operator of a contained landfill shall remove debris, mud, and waste from vehicles before leaving the site. The owner

or operator shall be responsible for removing landfill debris, mud, and waste from off-site roadways.

Section 7. Water Controls. The owner or operator of a contained solid waste landfill shall:

(1) Maintain the site as necessary to prevent erosion or washing of the fill, and grade as necessary to drain rainwater from the fill area and to prevent standing water.

(2) Maintain all run-on and run-off control systems as necessary to maintain original design capacity as required by Section 2 of 401 KAR 48:070. This includes, but shall not be limited to:

(a) Removal of sediment from run-off control structures. The site design shall specify the method to be used to determine when clean-out shall occur;

(b) Removal of debris, wastes and soil from diversion and run-off ditches to maintain the design capacity;

(c) Construction and maintenance of temporary diversion ditches around the current working face. The owner or operator shall specify the location of the temporary ditches in the operational plan required by 401 KAR 47:190 and the ditches shall be approved by a professional engineer registered in the Commonwealth of Kentucky.

Section 8. Waste Restrictions. (1) The owner or operator of a contained landfill shall only dispose of wastes that:

(a) Are not hazardous wastes regulated pursuant to 401 KAR Chapters 30 through 40, except for limited quantity hazardous wastes and exempt spill residues;

(b) Do not contain free liquids as determined by the cabinet; [and]

(c) Are specified in the approved permit application; and

(d) Do not contain lead-acid batteries or nonprocessed tires.

(2) The owner or operator shall comply with the recordkeeping and reporting requirement of Section 11 of this regulation pertaining to the location of disposed limited quantity hazardous waste and exempt spill residues.

Section 9. Working Face Requirements. (1) Within two (2) hours of receipt, the owner or operator shall spread wastes in loose layers not exceeding twenty-four (24) inches in depth and compact it to the maximum practicable density. The owner or operator shall use the equipment specified in the permit for compaction. The operator shall pass the equipment over 100 percent of the waste surface at least four (4) times. Each loose layer shall be fully compacted before any additional waste is placed.

(2) The owner or operator shall not exceed the lift height specified in the permit.

(3) The owner or operator shall not place an initial lift containing any object that may damage the bottom liner. The owner or operator shall protect the liner system with a layer of dirt, waste or similar blanket placed between operating equipment and the liner.

(4) The daily working face shall be restricted to the smallest area practical for working face operation.

(5) The completed cell shall consist of the solid waste compacted during one (1) working day.

(6) The owner or operator shall prohibit scavenging within 100 feet of the working face. All salvage and recycling shall occur at areas so designated in the permit.

(7) The owner or operator shall only allow access to the landfill when operating personnel are on the site.

(8) The owner or operator shall not accept solid waste at a rate that exceeds the rated capability of the operational compaction and cover equipment available on site.

(9) The owner or operator shall not accept solid waste without landfill personnel present to supervise the unloading.

(10) The grounds in and about a landfill shall not be allowed to become a nuisance. When necessary, interior fences may be required to prevent litter from blowing from the landfill. The permitted area shall be policed on a routine basis to collect all scattered material.

(11) All litter attributable to the site's operation shall be picked up within forty-eight (48) hours.

(12) Unless excluded from the site, large bulky items and other nonresidential wastes shall be deposited in a manner approved by the cabinet.

(13) The owner or operator shall conform to the posted operating hours for receiving waste and shall notify the cabinet of the operating hours before changing them. The entrance sign shall meet the requirements of Section 14(2) of this regulation.

Section 10. Employee Facilities. The owner or operator of a contained landfill shall provide buildings meeting Section 9 of 401 KAR 48:070, for site personnel. The buildings shall be maintained in a safe and sanitary manner. One (1) building shall have a safe drinking water supply.

Section 11. Reports and Recordkeeping. Records and reports shall be maintained and submitted in accordance with Section 8 of 401 KAR 47:190.

Section 12. Groundwater Monitoring. The owner or operator of a contained solid waste landfill shall implement the groundwater monitoring program in the approved application.

Section 13. Closure and Closure Care Requirements. (1) The owner or operator shall comply with the following closure requirements:

(a) The owner/operator of a contained landfill shall prepare a written closure plan that describes the closure activities for each unit including the following:

1. The methods to be employed to maintain the integrity and effectiveness of any final cap, including making repairs to the cap as necessary to correct the effects of settling, subsidence, erosion, or other events, and preventing run-on and run-off from eroding or otherwise damaging the final cap;

2. Maintenance and operation of the leachate collection system in accordance with the requirements, if applicable, until leachate no longer is generated;

3. Groundwater monitoring in accordance with the requirements of 401 KAR 48:300 and maintaining the groundwater monitoring system; and

4. Maintenance and operation of the explosive gas monitoring system in accordance with the

requirements of Section 4 of this regulation.

(b) The closure period shall be at least two (2) years following the cabinet's acceptance of the owners certification of closure.

(2) The owner or operator of a contained landfill shall prepare and implement a written closure care plan that describes monitoring and routine maintenance activities that shall be carried out during the closure care period of at least thirty (30) years. The closure care plan shall include, at a minimum, the following information:

(a) A description of the monitoring and maintenance activities for each unit and the frequency at which these activities shall be performed;

(b) Name, address and telephone number of the person or office to contact about the facility during the closure care period; and

(c) A description of the planned uses of the property during the closure care period. Closure care use of the property shall not be allowed to disturb the integrity of the final cap, liner(s), or any other components of the containment system, or the function of the monitoring systems, unless upon demonstration by the owner or operator, the cabinet determines that the activities shall not increase the potential threat to human health or the environment or the disturbance is necessary to reduce a threat to human health or the environment. The owner or operator shall obtain approval from the cabinet in order to remove any wastes or waste residues, the liner, or contaminated soils from the land.

(3) The closure care plan shall be submitted with the permit application and shall be approved by the cabinet. Any subsequent modification to the closure care plan also shall be proved by the cabinet. A copy of the most recently approved closure care plan shall be kept at the facility until completion of the closure care period has been certified in accordance with subsection (5) of this section.

(4) The owner or operator shall record a notice in the deed that shall in perpetuity notify any potential purchaser of the property of the location and time of operation of the facility, the nature of the waste placed in the site and a caution against future disturbance of the area. Such notice shall be recorded in accordance with KRS Chapter 382 and proof of recording shall be submitted to the cabinet prior to the cabinet's acceptance of certification of closure.

(5) Following completion of all closure and closure care periods for each unit, the owner or operator of a contained landfill shall submit to the cabinet certification by a professional engineer, verifying that all phases of closure and closure care have been completed in accordance with the approved plans and the requirements of KRS Chapter 224.

Section 14. Signs. (1) Warning signs shall be visible at all landfill access points. The warning signs shall be readable at a distance of 100 feet. The signs shall give warnings of all site hazards, including but not limited to: explosive gases, heavy equipment movement and heavy truck movements.

(2) Entrance signs shall be visible, located at the public entrances and all entrances used by waste hauling vehicles. The signs shall be readable from 100 feet. They shall indicate landfill name, name of the owner, name of the operator, the hours of receiving wastes, the permit number and an emergency telephone number.

Section 15. Alternative Specifications. Alternative specifications may be used only after approval by the cabinet upon a demonstration by a qualified registered professional engineer that they shall result in performance, with regard to safety, stability and environmental protection, equal to or better than that resulting from designs complying with the specifications of this regulation.

CARL H. BRADLEY, Secretary
FRANK DICKERSON, Commissioner
APPROVED BY AGENCY: March 20, 1991
FILED WITH LRC: March 21, 1991 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on May 29, 1991, at 10 a.m. at the Capital Plaza Tower, Ground Floor Auditorium. Individuals interested in being heard at this hearing shall notify this agency in writing by May 24, 1991, 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. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation to the contact person: Susan C. Bush, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Susan C. Bush

(1) Type and number of entities affected: The proposed amendment affects owners and operators of contained landfills. There presently are 2 such landfills in the state; but, that number is expected to increase due to recent regulations restructuring the solid waste program in Kentucky. The change also affects anyone attempting to dispose of tires or lead-acid batteries.

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

1. First year: This amendment prohibits the disposal of lead-acid batteries in contained landfills. It also restricts the disposal of waste tires in contained landfills unless the tires are processed (e.g., shredded). Most landfills do not accept whole tires at present. This is leading to problems concerning illegal tire dumps. Landfill owners will need to acquire processing equipment in order to dispose of waste tires.

2. Continuing costs or savings: There may be increased costs associated with the disposal due to the increased cost of processing the tires at the landfill.

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 reporting or paperwork requirements.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: There are no direct or indirect costs or savings on the promulgating administrative body.
2. Continuing costs or savings: There are no continuing costs or savings.
3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.
(b) Reporting and paperwork requirements: There are no reporting or paperwork requirements.
(3) Assessment of anticipated effect on state and local revenues: There are no effects on state or local revenues.
(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) The proposed amendments are in response to House Bill 32 concerning waste tires, and House Bill 34 concerning disposal of lead-acid batteries.
Alternative: 1. Less stringent. The cabinet cannot be less stringent than the requirements set forth in state statutes.
2. More stringent. The cabinet cannot be more stringent than the requirements set forth in state statutes.
3. Present proposal. The proposed amendment restricts the disposal of waste tires in contained landfills unless they are processed (segmented, cut, or shredded). It also bans lead-acid batteries from being disposed in contained landfills.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no statute, administrative regulation or government policy in conflict.
(a) Necessity of proposed regulation if in conflict: There is no conflict.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no conflict.
(6) Any additional information or comments: There is no additional information.
TIERING: Was tiering applied? Yes. The regulations of 401 KAR Chapters 47 and 48 use multiple tiering systems. Permit-by-rule in 401 KAR 47:150, and granted permit-by-rule in 401 KAR 47:110, give certain practices and management activities a method of avoiding full permits. Emergency permits and research, development, and demonstration permits in 401 KAR 47:150 provide permitting mechanisms for certain situations. The solid waste landfills (contained, residual, and construction/demolition debris) and the three classes of landfarming provide for a tiering mechanism based on the type and quality of the waste received.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. There is no federal mandate. The proposed amendment is in response to HB 32 (KRS 224.2611-224.2637) concerning waste tires, and HB 34 (KRS 224.2502) concerning lead-acid batteries.
2. State compliance standards. The proposed amendments restrict the disposal of waste tires in contained landfills unless they are being processed (segmented, cut, or shredded). It also bans lead-acid batteries from being disposed of in contained landfills.
3. Minimum or uniform standards contained in the federal mandate. There is no federal mandate.
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? There is no federal mandate.
5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. There is no federal mandate.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 6:090. Frankfort Career Development Center.

RELATES TO: KRS Chapters 196, 197, 439
STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640
NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the secretary to adopt, amend or rescind regulations necessary and suitable for the proper administration of the cabinet or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of 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 April 15, 1991 [December 14, 1990] and hereinafter should be referred to as Frankfort Career Development Center Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601 or may be reviewed at the Office of General Counsel weekdays from 8 a.m. to 4:30 p.m.

FCDC 01-04-01	Confidentiality of Information Roles and Services of Consultant, Contract Personnel, Governmental Services Supervisors and Volunteers (Amended 4/15/91)
FCDC 01-05-01	Duties and Responsibilities of FCDC Duty Officer (Amended 4/15/91)
FCDC 01-09-01	Organization and Assignment of Responsibilities (Added 4/15/91)
FCDC 02-02-01	Inventory of Nonexpendable Personal Property (Added 4/15/91)
FCDC 02-09-01	Inmate Account Draw and Savings Deposit Transactions Between Inmates (Amended 4/15/91)
FCDC 02-10-01	Fiscal Management and Control (Amended 4/15/91)
FCDC 02-11-01	Fiscal Management: Accounting Procedures (Amended 4/15/91)
FCDC 02-12-01	Fiscal Management: Checking Accounts (Amended 4/15/91)
FCDC 02-13-01	Purchasing and Receiving (Amended 4/15/91)
FCDC 06-02-01	Inmate Records
FCDC 08-01-01	Fire Safety Practices
FCDC 09-01-02	Institutional Entry/Exit Surveillance and Perimeter Security Procedures
FCDC 09-03-01	Control and Accountability of Flammable Toxic, Caustic and Other Hazardous Materials

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

JOHN T. WIGGINTON, Secretary
APPROVED BY AGENCY: April 15, 1991
FILED WITH LRC: April 15, 1991 at 11 a.m.
PUBLIC HEARING: A public hearing on this regulation has been scheduled for May 21, 1991 at 9 a.m., in the State Office Building Auditorium. Those interested in attending this hearing shall notify in writing: Jack Damron and Tom Campbell, 5th Floor, State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Jack Damron
(1) Type and number of entities affected: 45 employees of the Frankfort Career Development Center, 180 inmates, and all visitors to state correctional institutions.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None - All of the costs involved with the implementation of the regulations are included in the operational budget.
2. Continuing costs or savings: Same as 2(a)1.
3. Additional factors increasing or decreasing costs: Same as 2(a)1.
(b) Reporting and paperwork requirements: Monthly submission of policy revisions.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. All policies are administered in a uniform manner.

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

704 KAR 3:035. Annual professional development plan.

RELATES TO: KRS 156.095, 156.0951, 158.070
STATUTORY AUTHORITY: KRS 156.070, 156.095, 158.070
NECESSITY AND FUNCTION: KRS 156.095 and 156.0951 authorize the Department of Education to establish, direct, and maintain a statewide program of professional development training,

with the relevant purpose of such a program being the improvement of instruction in the public schools; and KRS 158.070 requires the state board to adopt regulations setting forth guidelines and procedures to be followed for the approval of the four (4) days of the minimum school term which are mandated to be utilized by each local school district for professional development activities for the professional staff. This regulation implements these duties and powers by interpreting of what [that] professional development consists [of] and by requiring each local district or consortium of districts to have approved annually a master professional development plan by which it is to be guided in providing suitable professional development training programs and in requiring all instructional leaders to participate in the statewide training program implemented under KRS 156.101.

Section 1. Professional development shall mean any training of certified [school] personnel to assist them in acquiring the knowledge and skills needed for instructional improvement. The data, skills, and concepts comprising the substance of the training programs shall be determined by identified needs [deficiencies] in the instructional, administrative and support services of the school system.

Section 2. Each local district board of education shall have on file with [, by July 30, 1990, submit to] the State Department of Education an approved [for approval a] master professional development plan. The plan shall include the following components:

(1) Name of local school district;

(2) Name of professional development coordinator;

(3) Names of local school district's professional development committee, which shall be a representative body of all areas or levels of educational personnel within the local school district;

(4) Description of needs assessment, including a brief description of procedures implemented to determine how the district's professional development needs were assessed;

(5) Statement of district's instructional improvement goal(s), which shall be based on identified needs and which shall include but shall not be limited to the completion of the requisite training hours by all instructional leaders, as defined by KRS 156.101, regardless of the date of initial certification of such instructional leaders. Such training hours for instructional leaders may be completed as a part of the statewide program for such, either during the regular school term or during the summer;

(6) Statement of district's professional development objectives, which shall provide direction for education personnel in the attainment of the district's instructional improvement goals and shall include but shall not be limited to the completion of the above-defined requisite training hours for all instructional leaders;

(7) A listing of specific professional development activities and a justification of such activities with respect to the local professional development plan and KRS 156.095; and

(8) Description of evaluation, including:

(a) A summary of how professional development programs implemented and operated by individual local school districts shall be evaluated; and

(b) A summary of how the implementation of the master professional development plan shall be evaluated.

Section 3. (1) During the 1991-92 [1990-91] school year, the preliminary [master] professional development plan shall address any local district instructional improvement or training needs that are in accordance with the mandated areas listed in KRS 156.095 and 704 KAR 3:005.

(2) Professional development activities shall be related to teachers' instructional assignments and administrators' professional responsibilities. Activities shall support the local school district's instructional improvement goals and objectives identified in the master professional development plan.

(3) Activities for professional development credit of classroom teachers shall not supplant any of the six (6) hour instructional day.

(4) Professional development activities shall not occur on snow days. Districts may, however, report flexible professional development activities on snow days. This situation involves a calendar change only; it does not result in activities on snow days.

(5) Professional development credit shall not be awarded for college graduate courses that lead to a change in rank or certification status. Exceptions may be made for university courses that are clearly supportive of the participating district's master professional development plan.

(6) Professional development credit shall not be awarded for those activities that provide remuneration beyond travel, food and lodging [for time served].

(7) Districts implementing a flexible professional development schedule shall award professional development credit for any given academic school year within the date limitations of the master professional development plan.

(8) [During school years 1990-91 and 1991-92,] Approvable professional development activities are those which address instructional improvement for the school district, an individual school or a group of teachers in the areas required by KRS 156.095. Activities which are not approvable for professional development credit include, but are not limited to, the following: organizational business meetings, compiling class rosters, scheduling, textbook adoption committee meetings, writing lesson plans, housekeeping duties, faculty meetings, extracurricular activities; PTA/PTO meetings, sporting events, field trips, parent-teacher conferences, CPR training, and Kentucky Teacher Internship Program update training.

Section 4. (1) Each superintendent shall appoint a certified school employee to fulfill the role and responsibilities of a professional development coordinator.

(2) The minimum qualifications for the appointment shall be a valid Kentucky certificate as a principal or supervisor.

(3) The duties of the professional development coordinator as follows:

(a) Facilitates [Conducts] needs assessments for professional development and [assists in] the development [establishment] of goals and objectives for training programs and projects.

Beginning in July, 1991, needs assessments and development [establishment] of goals and objectives shall be carried out in conjunction with the school council of each school participating in school-based decision making within local district policy.

(b) Completes, in conjunction with the consortium, master professional development plan for inclusion in the [Master] Educational Improvement Plan.

(c) Serves as chairperson of district's [Master] Professional Development Committee.

(d) Plans, organizes, [and] implements, and evaluates professional development in conjunction with the consortium [projects and training for the 1990-91 school year. Beginning in July, 1991, organization and implementation of professional development activities shall be a function of the consortium to which the district belongs].

(e) Meets regularly with administrators and teachers to establish future goals and identify specific training needs of the district's personnel.

(f) Coordinates the establishment of procedures, timetables, preparation of necessary forms and letters, [selection of school coordinators,] assignment of workshop sites and all other practical elements of professional development training.

(g) Maintains all professional development records, documentations, and other pertinent records.

[(h) Conducts evaluation of all professional development training programs in the district in a manner which determines their effectiveness in improving teaching and management.]

(h) [(i)] Interprets the professional development programs' objectives, results, and needs to district staff, the board, civic and parent groups, teacher training institutions and others as appropriate.

(i) [(j)] Keeps updated on current professional development trends.

(j) [(k)] Maintains continuous liaison with Kentucky Department of Education, the consortium to which district belongs and other agencies involved with the district in the provision of professional development activities.

Section 5. By the effective date of this regulation [July 30, 1991], each local school district or consortium shall submit to the Department of Education a preliminary professional development [long-range] plan [for professional development]. This plan shall describe [tentative] training activities which the district or consortium wishes to provide for its certified staff using the services of the Department of Education during the 1991-92 school year. It shall also describe [and the] services of its consortium during the 1992-95 school years.

Section 6. Beginning in July, 1992, each consortium formed shall submit to the Department of Education an annual professional development plan describing training activities for its member districts. This plan shall be based upon the member district's needs as reported to the consortium by each district's professional development coordinator.

Section 7. No more than twenty-five (25) percent of each local district's professional development funds shall be used by the consortium for administrative purposes.

Section 8. [7.] When implementing professional development programs under KRS 158.070, each local school district or consortium of districts shall adhere to its approved master professional development plan as developed with technical assistance provided from the Department of Education.

Section 9. [8.] Any local district not complying with Sections 1 through 8 [7] of this regulation shall be required to personally appear through appropriate representatives before the State Board for Elementary and Secondary Education in order to offer explanation for any noncompliance.

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).

THOMAS C. BOYSEN, Commissioner

JOSEPH W. KELLY, Chairman

APPROVED BY AGENCY: March 22, 1991

FILED WITH LRC: March 27, 1991 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on May 22, 1991 at 10 a.m. in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by May 17, 1991, five days prior to hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Dr. Dan H. Branham, Secretary, State Board for Elementary and Secondary Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Gary Bale

(1) Type and number of entities affected: 176 local 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: Potentially less paperwork for local districts.

(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:

(b) Reporting and paperwork requirements: No change.
(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:
TIERING: Was tiering applied? No. Affects all districts.

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

704 KAR 4:020. Comprehensive school health.

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 Education to adopt regulations governing medical inspection, physical 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 the duty of the State Board relative to medical inspections and the physical welfare and safety of public school children.

Section 1. School employee medical examinations shall be required as follows for the protection of the physical welfare and safety of the public school children.
(1) All local boards of education shall require a medical examination of each teacher upon initial employment which shall include a tuberculin skin test. All positive reactors shall be required to comply with the recommendations of the local board of health and the Cabinet for Human Resources for further evaluation and treatment of the tuberculosis infection. Following the required medical examinations for initial employment and any subsequent examinations as may be required for positive tuberculin reactors, each teacher shall submit to the local school superintendent a statement indicating his or her medical status.
(2) All local boards of education shall require upon initial employment and each year thereafter a medical examination of each school bus driver and drivers of special vehicles used to transport school children to and from school and events related to such schools. The medical examination shall include test for hearing and vision disorders, emotional instability, and for serious medical conditions including diabetes, epilepsy, heart disease, and other chronic or communicable diseases if indicated in the opinion of the examining physician. The initial examination shall include tests for tuberculosis. All positive reactors shall be required to comply with the recommendations of the local board of health and the Cabinet for Human Resources for further evaluation and treatment of the tuberculosis infection. Following the required medical examination for initial employment and any subsequent examinations, as may be required for positive tuberculin reactors, each bus driver shall submit to the local school superintendent a statement indicating his or her medical status. All medical examinations of the school bus drivers shall be reported on a form prescribed by the State Department of Education and entitled, "Medical Examination Report for School Bus Drivers and Substitute School Bus Driver," which is incorporated herein by reference, and submitted to the local school superintendent.
(3) All local boards of education shall require a medical examination of each custodian, cafeteria worker, and other classified school employees not specifically covered by subsection (2) of this section upon initial employment. The medical examination shall include tests for tuberculosis, hearing and vision disorders, emotional instability, and for serious medical conditions including diabetes, epilepsy, heart disease, and other chronic or communicable diseases if indicated in the opinion of the examining physician. All positive tuberculin reactors shall be required to comply with the recommendations of the local board of health and the Cabinet for Human Resources for further evaluation and treatment of the tuberculosis infection. Following the required evaluation, each employee shall submit to the local school superintendent a statement indicating his or her medical status. Medical examinations shall be reported on forms prescribed by the State Department of Education and entitled, "Medical Examination of School Employees," which is incorporated herein by reference.
(4) The local board of education shall require all school personnel exhibiting symptoms of chronic respiratory disease to be examined for tuberculosis. The evaluation and any required treatment for tuberculosis infection shall be based upon the recommendations of the local board of health and the standards developed by the Cabinet for Human Resources.
(a) Any personnel exposed to infectious tuberculosis shall be tested and, if necessary, treated for tuberculosis infection according to the recommendation of the local board of health.
(b) In counties with high incidence rates for tuberculosis infection defined as equal to or greater than one (1) percent, the local board of health may, with the approval of the Cabinet for Human Resources, exercise its legal sanction to require more extensive testing for tuberculosis than outlined above.

Section 2. All local boards of education shall require a medical examination of each child within six (6) months prior to, or one (1) month following, his or her initial admission to school <u>and again upon entry into the sixth grade</u>. The medical examination, performed and signed for by a physician, shall be reported on forms prescribed by the Department of Education and entitled, "School Medical Examination Form," which is incorporated herein by reference, and shall include a medical history; record of immunizations and tuberculosis testing;

assessment of growth and development and general appearance; physical assessment including hearing and vision screening; and recommendations to the school regarding health problems that may require special attention in classroom or physical education activities. All boards of education shall adopt a program of continuous health supervision for all school enrollees; such supervision shall include scheduled screening tests for vision, hearing and scoliosis. The need for any further tuberculin skin test shall depend on the risk of exposure of the child and prevalence of tuberculosis in the community, such need to be determined pursuant to KRS KRS 214.034.

(1) An effective mechanism for referral and appropriate follow-up of any apparent abnormality noted by screening assessment or teacher observation shall be recorded on school health records within nine (9) weeks of screening program or detection of abnormality.

(2) Each school shall have emergency care procedures. The emergency care procedures shall include first aid facilities, at least two (2) adults in each school who have completed and been certified in a standard first aid course, parents' telephone number, name of family physician, and means of transportation.

(3) Local boards of education shall require all vaccinations and immunizations and tuberculosis testing as required by law or regulations:

(a) Except as otherwise provided by law, all children shall be required to present a valid immunization certificate upon enrollment in school, and a valid up-to-date immunization certificate shall be on file for all children at all times. All children shall also present a tuberculin test certificate or the school medical examination form to the public or private school showing tuberculin skin test administration within one (1) year prior to initial enrollment in school. The governing body of private and public schools shall enforce the provisions of this subsection in accordance with the established laws.

(b) Children transferring into any school district shall comply with the above requirements.

Section 3. (1) Each elementary and secondary school shall initiate a cumulative health record for each pupil entering school. Such record shall be maintained throughout the pupil's attendance. Such record shall be uniform and shall be on forms prescribed by the Department of Education and entitled "Pupil's Cumulative Health Record," which is incorporated herein by reference. Such record shall include screening tests related to growth and development, vision and hearing; teacher observations of general appearance and behavior; and findings and recommendations of physician and dentist including immunization record. A follow-up by the proper health or school authorities shall be made on each defect noted and the result shall be recorded.

(2) Local school authorities shall report all known or suspected cases of communicable disease immediately to the local health department.

Section 4. All boards of education shall, in relation to each school under its jurisdiction, provide and maintain a physical environment that is conducive to the health and safety of school children. It shall be the responsibility of all local boards of education to comply with current laws and regulations applicable to all public buildings pertinent to health, sanitation, and safety. In accordance with current regulations and standards by authorities having jurisdiction, it shall be the responsibility of all local boards of education to establish:

(1) An adequate supply of water of safe, potable, sanitary quality.

(2) A state-approved sanitary disposal of sewage, other water carried waste, and solid waste.

(3) Adequate toilet and lavatory facilities and other sanitary fixtures.

(4) Adequate heating, lighting, and ventilation in all school buildings.

(5) Adequate facilities and equipment for cafeterias and lunchrooms.

(6) Supervision of general sanitation and safety of the school buildings, grounds, and playground equipment.

(7) Adequate first aid facilities.

(8) Adequate control of air pollutants.

Section 5. Each board of education shall designate a person to serve as school health coordinator. Such person shall meet the minimum qualifications required of this position. The school health coordinator shall work in cooperation with all school personnel, the local board of education, the State Department for Elementary and Secondary Education, and the local health department in planning, promoting, and implementing a school health services program that meets the regulations adopted by the State Board of Education.

Section 6. Each local board of education shall require an annual medical examination of each child as a prerequisite for eligibility in interscholastic athletics. A local board of education may require such examination to be paid by the parent of the child.

Section 7. All forms incorporated herein by reference may be inspected, copied, and obtained from the Division of Student Services, Department of Education, 17th Floor, Capital Plaza Tower, 500 Mero Street, 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).

THOMAS C. BOYSEN, Commissioner

JOSEPH W. KELLY, Chairman

APPROVED BY AGENCY: March 22, 1991

FILED WITH LRC: March 27, 1991 at 10 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on May 22, 1991 at 10 a.m. in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by May 17, 1991, five days prior to hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. The hearing is open to the public. Any person who attends

will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Dr. Dan H. Branham, Secretary, State Board for Elementary and Secondary Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Terry Vance
(1) Type and number of entities affected: 6th grade students.
(a) Direct and indirect costs or savings to those affected:
1. First year: Cost to parents for student physicals.
2. Continuing costs or savings: Savings in reduction of health problems improved attendance.
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: Must file in student's cumulative folder.
(2) Effects on the promulgating administrative body: NA
(a) Direct and indirect costs or savings:
1. First year: NA
2. Continuing costs or savings: Improved student attendance.
3. Additional factors increasing or decreasing costs: NA
(b) Reporting and paperwork requirements: Must file in student's cumulative folder.
(3) Assessment of anticipated effect on state and local revenues: NA
(4) Assessment of alternative methods; reasons why alternatives were rejected: NA
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: NA
(a) Necessity of proposed regulation if in conflict: NA
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: NA
(6) Any additional information or comments:
TIERING: Was tiering applied? No. Health regulations need to be uniform across the state.

WORKFORCE DEVELOPMENT CABINET
Department for Adult and Technical Education
(Proposed Amendment)

780 KAR 2:090. Postsecondary vocational technical school admission priorities.

RELATES TO: KRS 151B.025, 151B.110
STATUTORY AUTHORITY: KRS 151B.025, 151B.110
NECESSITY AND FUNCTION: KRS 151B.110 gives the State Board for Adult and Technical Education authority to carry out the purposes of the state's vocational education program, and further gives it all necessary power and authority to administer vocational education in the state-operated vocational schools. This regulation establishes admission priorities for adults for state-operated vocational schools.

Section 1. State-operated vocational schools in the Kentucky Tech System shall maintain the following adult student applicant lists:
(1) Prospect list by date of inquiry;
(2) Preadmission program list of applicants not meeting program admission requirements who are enrolled in the school in a remediation program designed to assist in meeting program entry requirements;
(3) Preregistration waiting list of program-ready applicants who have completed all program entry requirements; and
(4) List of applicants who have not requested program admission but request admission to continuing education classes. Continuing education enrollees in classes which are part of preparation programs must meet program entry requirements prior to acceptance in a diploma program. [General admission of adults to state-operated vocational school programs shall be from a preregistration list by occupational program, which is maintained at the central office of each school. Applicants shall be preregistered when school admission requirements are completed and the applicant meets the prerequisites for the course. Students not meeting the program admission requirements, but enrolling in a designated academic remedial program, shall be added to the preregistration list on the date of admission to the remedial program. Applications shall be filed according to the date received. Applicants must respond within seven (7) calendar days after being officially notified by letter that an opening is available.]

Section 2. The preregistration waiting list shall show the date applicants completed requirements and became program-ready. Applicants enrolled in a remediation program are placed on the preregistration list only after meeting entrance test scores. The preregistration list shall be updated in December and June of each year. Any applicant on the list over six (6) months must notify the school of a desire to remain on the list or the name will be deleted. Applicants must respond within seven (7) calendar days after official notification by letter of admission into the program.

Section 3. [2.] Class size projects funded under contract or agreement with another public or with a private agency shall give priority admission to clients sponsored by the funding agency. If not prohibited by the contract or agreement, slots not used may be filled from the general preregistration list.

Section 4. [3.] Individual slots in regular programs which are purchased by other public or by private agencies shall be reserved for clients sponsored or referred by that agency. Slots shall be identified and purchased by specific programs.

Section 5. [4.] Students shall be admitted from the general preregistration list in the following order of priority:
(1) Students in good standing who, because of illness or other hardship, previously had to withdraw but want to reenter the program;
(2) Secondary vocational students who, upon graduation from high school, wish to continue training at the long-term adult level and who

file an application prior to graduation. (Students in social services' programs operated under the direction of the Office of Kentucky Tech shall be qualified under this category);

(3) Continuing education students who have successfully completed the core classes for a specific occupational program as defined in the curriculum and wish to become full-time students or individuals who have successfully worked in a related occupation for one (1) or more years. Such students shall meet all other entrance requirements.

(4) [(3)] Students enrolled in other Kentucky vocational schools, including the Carl D. Perkins Rehabilitation Center and correctional institutions, who request a transfer to complete their present training; and

(5) [(4)] Veterans who, within one (1) year [six (6) months] of honorable separation from military service, make their first and initial application for enrollment, with names being placed on the lists according to the date of entry into military service, or dependents of a deceased veteran who are otherwise eligible.

Section 6. [5.] For vacancies in full-time programs, applicants requesting full-time attendance shall receive priority over those requesting part-time attendance.

Section 7. [6.] An applicant's name shall be removed from the preregistration list when the applicant:

(1) Fails to respond upon notification that an opening is available;

(2) Requests that his/her name be removed;

(3) Enrolls in a program; or

(4) Fails to notify the school that he/she wishes to remain on the list.

[Section 7. Preregistration lists shall be updated every six (6) months. It shall be the responsibility of each applicant on the preregistration list to notify the school that he/she wishes to remain on the list.]

Section 8. Students entering high technology Category I programs in industrial education or health programs may be required to spend a day in an occupational setting related to the career objective unless they have had previous work experience in the field. The school may provide alternate scheduling of this occupational shadowing to occur in the school setting. As part of the process for orienting prospective students about programs, schools are encouraged to use personnel employed in the field. A group orientation and/or an individual preadmission counseling interview shall be required before any individual is admitted as a student into a high technology program.

GEORGE R. SIEMENS, JR., Chairman

APPROVED BY AGENCY: March 27, 1991

FILED WITH LRC: April 15, 1991 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on May 22, 1991 at 10 a.m., EDT, in the Room 2010, 20th Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by May 17, 1991, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by this date, the hearing may be cancelled. Those persons wishing to attend and testify shall contact in writing: Audrey T. Carr, Secretary, State Board for Adult and Technical Education, 2013 Capital Plaza Tower, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Audrey Carr

(1) Type and number of entities affected: Approximately 9,000 students annually wishing to enter an occupational postsecondary preparation program in state-operated vocational schools.

(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:

(2) Effects on the promulgating administrative body: No significant 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:

(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 clarifies the process for handling registration, it gives priority to continuing education students wishing to enter a full-time program, and also provides for mandatory counseling for particular programs.

TIERING: Was tiering applied? Yes

WORKFORCE DEVELOPMENT CABINET
Department for Adult and Technical Education
(Proposed Amendment)

780 KAR 2:130. Minimum standards of admission for [long-term] adult students in vocational programs.

RELATES TO: KRS 151B.025, 151B.110, 151B.150 [151B.145]

STATUTORY AUTHORITY: KRS 151B.110, 151B.150 [151B.145]

NECESSITY AND FUNCTION: KRS 151B.150 [151B.145] vests the State Board for Adult and Technical Education with authority to carry out the purposes of the state's vocational education program and adopted federal acts relative thereto and KRS 151B.110 grants authority for management of the state operated vocational schools. The purpose of this regulation is to establish minimum entrance requirements for students entering vocational programs, to establish a base for determining if students may receive advanced placement, to assist in developing remedial plans for students who need help in meeting minimum admission requirements,

and to determine if a student needs additional assessment.

Section 1. Students admitted to the school must meet program admission standards prior to admission to the occupational program. All occupational programs are classified as either Category I, II, or III for the purpose of identifying required scale scores. Course classifications and any other specific program admission requirements are available from the Kentucky Tech Office in the Department for Adult and Technical Education and from all state vocational/technical schools. Program categories are based on the level of difficulty of required texts and the technical nature of the curriculum.

(1) Scale scores from the Comprehensive Test of Basic Skills (CTBS), or Test of Adult Basic Education (TABE) will be used for program placement and for a remedial plan to help students meet minimum program requirements.

(2) Students who have the following scale scores must be enrolled in math and reading programs to improve their skills. Enrollment may be concurrent with or prior to program enrollment in Category III programs. Students pursuing a diploma must continue improvement of reading and math scores until scores in subsection (3) of this section are met.

	CTBS		TABE
	Form U	Form 4	Form 5-6A/D
Reading	742-774	749-785	739-769
Math	764-788	781	764-784

(3) Students enrolling in Category II programs must have the following scale scores prior to program entry:

	CTBS		TABE
	Form U	Form 4	Form 5-6A/D
Reading	775	786	770
Math	789	797	786

(4) Students enrolling in Category I programs must have the following scale scores to be admitted to the program:

	CTBS		TABE
	Form U	Form 4	Form 5-6A/D
Reading	782	798	776
Math	915	797	790

Applicants for Category I programs who meet subsection (3) of this section scores but do not meet scores identified in subsection (4) of this section may be enrolled in Category I programs if they successfully complete required technical core classes for that program.

(5) Where applicable, all programs shall operate according to guidelines developed by state and/or national licensure, certification, and registration agencies with jurisdiction over graduates seeking employment in occupations governed by such agencies. In addition, any program operated under contract for a specific business or industry must conform to the requirements of the industry for admission of students.

Section 2. [1.] The following minimum admission requirements shall apply to adult students [those schools offering training to students who have graduated or left high school and are enrolled] in an occupational preparation program of 500 hours or more [in length that does not lead to an associate degree]:

(1) [Students enrolling in a vocational school postsecondary program] Must be sixteen (16) years of age or older. Licensure for some programs may require a higher minimum age. [;]

(2) Completion of [Students enrolling must have successfully completed requirements for] a high school diploma or its equivalent. For Category III programs, students may be admitted without [Students who do not possess] a high school diploma or its equivalent as a [may be admitted] with special status student provided the student agrees to pursue the high school equivalency certificate and complete the GED prior to graduation. [;]

(3) Submit [Students enrolling must complete an application form and provide] a transcript of secondary and postsecondary [previous school] work [completed], GED test scores if applicable, and [including scale] scores on the Comprehensive Test of Basic Skills (CTBS) or the Test of Adult Basic Education (TABE) if taken in the last three (3) years. Students who cannot provide current test scores which meet minimum reading and math scores must take the Test of Adult Basic Education. Handicapped students may be provided modified assessments. [or the Kentucky Essential Skills Test (KEST);]

[(4) Students enrolling who do not have a transcript and/or CTBS scale scores or KEST scale scores must take the Test of Adult Basic Education (TABE). Students not having acceptable CTBS or KEST scale scores for program admission may take the TABE;]

Section 3. [(5)] Students may be admitted to the school upon completion of application, required records, and testing as outlined in Section 2 of this regulation [results] and may pursue instruction in a basic academic skills program, career exploration, core elective courses, and modified/special programs for handicapped. [; and]

Section 4. [(6)] The Kentucky Department for Adult and Technical Education does not discriminate on the basis of race, color, national origin, marital status, age, sex, or handicap.

[Section 2. Students who have been admitted to the school must meet admission standards for the occupational program. The following minimum requirements shall apply to all students:]

[(1) Scale scores from Comprehensive Test of Basic Skills (CTBS), Form U, Kentucky Essential Skills Test (KEST) or Test of Adult Basic Education (TABE), Level D, will be used in program placement and in developing a plan for students who need help in remedial work to meet minimum program admission requirements.]

[(2) Students must have the following scale scores for admission to a vocational program not otherwise mentioned:]

	[KEST/ CTBS	TABE (Forms 3 & 4)	TABE (Forms 5 & 6)]
Reading	725	489	739
Math	717	524	764]

[Students who score below said minimum will be referred to a remediation program prior to admission to the occupational program. Students achieving the minimum basic skills in the

remediation program will be admitted to the occupational program when a work station is available. Students pursuing the diploma will be required to continue to improve their reading and math scores indicated in subsection (3) of this section are met.]

[(3) Students who have the following scale scores must be enrolled in math and reading programs to improve their skills. Enrollment may be concurrent with or prior to enrollment in the program.]

	[KEST/ CTBS	TABE (Forms 3 & 4)	TABE (Forms 5 & 6)
Reading	725 to 770	489 to 574	739 to 770
Math	717 to 732	524 to 582	764 to 785]

[(4) Students enrolling in Air Craft Mechanics, Biomedical Technician, Electronics, Instrumentation, Medical Laboratory Technician, Practical Nursing, Radiologic Technology, Respiratory Therapy, Surgical Technology, Civil Highway Technology, Advanced Technology Center Program and Drafting must have the following scale scores to be admitted to the program:]

	[KEST/ CTBS	TABE (Forms 3 & 4)	TABE (Forms 5 & 6)
Reading	770	574	770
Math	732	582	785]

[(5) Students enrolling in Biomedical Equipment Technician, Medical Assistant, Mine Maintenance, Practical Nurse, Radiologic Technology, Respiratory Therapy, and Surgical Technology must be seventeen (17) years of age or older.]

[(6) Students enrolling in Heavy Equipment Operator, Heavy Equipment Maintenance, and Mine Equipment Operator must be eighteen (18) years of age or older.]

[(7) Students enrolling in Mine Equipment Operator must complete forty-eight (48) hour Mine Safety Training Program before entering the simulated mine.]

[(8) Students enrolling in Heavy Equipment Operator and Heavy Equipment Maintenance must have a valid driver's license.]

Section 5. [3.] The following minimum requirements shall apply to advanced standing for [those students requesting to] transfer students from other accredited institutions: [credit and be admitted with advanced standing from other vocational schools or other institutions accredited by an educational agency recognized by the Department for Adult and Technical Education:]

(1) The student must supply the name and address of all previous institutions that provided [vocational] training;

(2) The student must provide a record of competencies achieved, length of training, date of enrollment, and date of withdrawal [termination] from each institution attended. The receiving school may validate competencies through testing and interviewing and/or school admission requirements; and

(3) The student must provide all records and reports which are required by the state boards and/or licensing agencies for [in] a given vocational program.

Section 6. [4.] This regulation shall be implemented in all state vocational-technical schools and health facilities, but shall not apply to [except] correctional institutions. Postsecondary students enrolling in area vocational education centers must meet the admission requirements as specified in this regulation. This regulation shall become effective first quarter, 1991. Any person on a preregistration waiting list who does not meet new requirements shall be permitted to retest.

GEORGE R. SIEMENS, JR., Chairman
APPROVED BY AGENCY: March 27, 1991
FILED WITH LRC: April 15, 1991 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on May 22, 1991 at 10 a.m., EDT, in the Room 2010, 20th Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by May 17, 1991, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by this date, the hearing may be cancelled. Those persons wishing to attend and testify shall contact in writing: Audrey T. Carr, Secretary, State Board for Adult and Technical Education, 2013 Capital Plaza Tower, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Audrey Carr
(1) Type and number of entities affected: Approximately 9,000 students entering postsecondary programs annually in the state-operated vocational schools.
(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: 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:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: This regulation updates the existing requirements for admission of postsecondary students. It eliminates test data no longer useful.
TIERING: Was tiering applied? Yes

PUBLIC PROTECTION & REGULATION CABINET
Department of Mines and Minerals
Division of Explosives and Blasting
(Proposed Amendment)

805 KAR 4:010. Licensing and classification of blasters.

RELATES TO: KRS 351.315, 351.325
STATUTORY AUTHORITY: KRS Chapter 13A, 351.335
NECESSITY AND FUNCTION: KRS 351.315 requires the Department of Mines and Minerals to license blasters. This regulation establishes [spells out] the licensing requirements and duties of a blaster to effect this law.

[Section 1. Licensing of Blasters. (1) No person shall detonate explosives in any blasting operation in which more than five (5) pounds of explosives or the equivalent are used in a single charge or in which less than five (5) pounds of explosives is used by a regular user, excluding blasting for agriculture and underground coal, unless he is licensed by the department. The department shall issue a license to use explosives to any person who:]

[(a) Has worked in blasting operations for at least twenty-four (24) months under the immediate supervision of an experienced blaster; and]

[(b) Has passed an examination, prescribed by the department which shall test the examinee's practice of blasting operations and the storage, moving, handling, and detonation of explosives.]

[(2) Application for license shall be in writing upon a form furnished by the department and shall be accompanied by a fee of twenty (20) dollars. If the applicant is successful in passing the examination, a license to detonate explosives shall be issued upon the payment of an additional fee of five (5) dollars.]

(1) [(3)] The department shall have two (2) classifications of blasting licenses for each of which there shall be a separate test [and two (2) tests]; one (1) termed "Kentucky Blaster's License," and one (1) termed "Limited Kentucky Blaster's License."

(2) [(4)] Persons holding a Limited Kentucky Blaster's License shall not conduct a blasting operation in which more than five (5) pounds of explosives are used in a single charge.

(3) [(5)] Each blaster shall be required to renew his license each year by application to the department, which application shall be accompanied by a fee of ten (10) dollars. [The commissioner may suspend any license for due cause but no license may be revoked until the licensee has been granted a hearing.]

(4) [(6)] A blaster who fails to renew his Kentucky Blasters License within five (5) years of the expiration date of his last valid license shall be required to reapply for a license and retake the blasters examination in a manner established in KRS 351.315 [as specified in subsection (2) of this section]. Blasters not [falling] in the above category may have their licenses renewed by paying to the department a sum equal to the annual renewal fees for the years of nonrenewal.

(5) [(7)] The commissioner may grant a thirty (30) day nonrenewable blaster's license to any person qualified under KRS 351.315(3) upon the payment of a five (5) dollar fee.

(6) For [(8) The definitions of a blaster for] the purpose of licensure, a blaster [a license] is:

(a) A [blaster is a] person who makes any or all of the following decisions:
1. Decides hole size, spacing, or depth;
2. Decides total quantity of explosives;
3. Decides quantity of explosives in each hole;
4. Decides timing delays to be used.

(b) He shall also [must] be present when the charge is detonated and either physically detonate[s] the charge or give[s] the order to detonate the charge.

(c) He shall complete and sign a record for each blast as required in KRS 351.360.

(7) [(9)] A licensed blaster shall not take any instruction on the activities described [covered] in subsection (6) [(8)] of this section from a person not holding a blaster's license if compliance with such instruction may [will] result in an unlawful act or unlawful effect of the blast.

(8) [(10)] Anyone failing a blaster's examination may not retake the examination in less than thirty (30) days.

[(11) The commissioner may suspend any license for due cause but no license may be revoked until the licensee has been granted a hearing.]

(9) [(12)] Persons involved in seismic exploration of the subsurface geology and detonating explosives solely for the purpose of monitoring seismic waves generated by such a detonation must hold either a Kentucky Blasters License or a Limited Kentucky Blaster's License. The five (5) pound limitation in subsection (2) [(4)] of this section may be waived for the purpose of seismic exploration based upon a written request to the department.

(10) Persons engaged in blasting operations in oil production and detonating explosives for the purpose of enhancing oil production, cutting casing, or other similar purposes, where the explosives are placed in an oil well, must hold either a Kentucky Blaster's License or a Limited Kentucky Blaster's License. The five (5) pound limitation in subsection (2) of this section may be waived for the purpose of oil well shooting based upon a written request to the department. The use of shaped charges of less than ten (10) grams weight to perforate casing or strata does not meet the definition of blasting operation and does not require either license.

(11) [(13) Any person who is a licensed blaster in another state where the qualifications prescribed at the time of licensing were, in the opinion of the commissioner, equal to those prescribed in the Commonwealth at the date of application, and where reciprocal licensing privileges satisfactory to the department are granted to licensees of the Commonwealth, may be granted a license without an examination.] Application for the reciprocal [such] license described in KRS 351.315(3) shall be on a form furnished by the department and accompanied by a fee of ten (10) dollars.

THEODORE T. COLLEY, Secretary
CARL ANKROM, Acting Commissioner
LARRY C. SCHNEIDER, Director
APPROVED BY AGENCY: April 8, 1991
FILED WITH LRC: April 10, 1991 at 9 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Friday, May 24, 1991 at 10 a.m. in the Conference Room of the Department of Mines and Minerals, 3572 Ironworks Pike, Lexington,

Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by May 19, 1991, 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 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 attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Larry Schneider, Kentucky Department of Mines and Minerals, P. O. Box 14080, Lexington, Kentucky 40512.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Larry Schneider

(1) Type and number of entities affected: Annually, there are 10 to 15 persons working in the oil and gas industry who apply for a blaster's license. These people will be affected by this amendment relating to the licensure of oil and gas blasters. Other changes will affect all 3500 licensed blasters in the Commonwealth.

(a) Direct and indirect costs or savings to those affected: There will be no added costs or savings since the requirements of this proposed amendment allow affected oil and gas blasters to use a Limited Blaster's License instead of the General Blaster's License. The examination fee, license fee and renewal fees are identical for both licenses.

1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors increasing or decreasing costs, nor any effect on competition.

(b) Reporting and paperwork requirements: There are no additional reporting or paperwork requirements in this regulation. The record specified in subsection (6)(c) is already required to be completed, this regulation merely specifies the person responsible for this record.

(2) Effects on the promulgating administrative body: This amendment will have no effect upon the Department of Mines and Minerals, since the agency is currently issuing the license made subject to the regulation.

(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: There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: There are no additional reporting or 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: The alternative methods available would be to leave the licensing requirements for oil and gas blasters as they exist. This is an unfair requirement on these people since the existing requirements for licensure do not correspond to their methodology or experience.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no conflicts between this regulation and other statutes, regulations, or 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:

(6) Any additional information or comments: Currently, a person in the oil and gas industry who applies for a blaster's license must meet the same requirements that blasters in the construction and mining industry do. This requires that they complete extensive training in the fundamentals of explosive practices in these fields. Likewise, the subject matter on the blaster's examination is directed toward the large scale explosive user in surface coal mines and on construction projects. They are unfamiliar with this material, and even after learning this material it has little or nothing to do with the explosive applications they make. The use of small-shaped explosive charges to perforate well casing and rock strata is so specialized that is should not be considered to be within the scope of "blasting operations" as defined by KRS 351.310. The addition of paragraph (c) to subsection (6) is intended to enable the department to identify the individual blaster responsible for a particular detonation when there are several licensed blasters employed in the blasting operation. Subsections (1), (2), (11) and a portion of (13) are deleted in order to comply with KRS Chapter 13A, which prohibits an administrative regulation that repeats statutory language. The aforementioned subsections reiterate language found in KRS 351.315 verbatim. Other amendments of individual words or phrases are intended to clarify the language and meaning of certain subsections.

TIERING: Was tiering applied? Yes. Tiering is used in this proposed amendment since the type of blasting that persons in the oil and gas industry do is considerably different from the type done in the construction and mining industry. In view of this, the requirement for a blaster's license should reflect this difference. Likewise, the use of small explosive charges to perforate well casing does not constitute the "blasting" as it is usually regarded.

PUBLIC PROTECTION & REGULATION CABINET
Department of Mines and Minerals
Division of Explosives and Blasting
(Proposed Amendment)

805 KAR 4:030. Seismograph measurements.

RELATES TO: KRS 351.330
STATUTORY AUTHORITY: KRS Chapter 13A, 351.335
NECESSITY AND FUNCTION: KRS 351.330 requires the Department of Mines and Minerals to limit ground vibrations. This regulation effects the provisions of that law.

Section 1. [Seismograph Measurements.] (1) If a blaster decides that the table of maximum pound per delay established in 805 KAR 4:020 [provided by the department] is too conservative, he may use seismograph

measurements and increase the charge per delay period, provided the velocity of two (2) inches per second limit is not violated. He must use the seismograph on every shot thereafter so long as the table is not being complied with.

(2) If a blaster considers the table too conservative for his particular area, he may, upon submission of seismograph reports, petition for a modified table for blasting operation at that particular site but in no case shall the department allow a table that would permit velocities above the two inch per second limit on structures imposed [covered] by KRS 351.330.

(3) In making a seismograph determination of the velocity at a particular position, the following formula shall be used:

$$V = Vo (Do/D) 1.5$$

Where Vo is the maximum ground particle velocity at the seismograph, Do is the distance of the seismograph from the blast, and D is the distance from the blast to the position in question and in the same general direction. The distance Do may not be greater than D, and D cannot be more than five (5) times Do. This determined velocity at the site of any dwelling house, public building, school, church, commercial or institutional building shall not exceed the two (2) inches per second limit.

(4) If special conditions occur which indicate that abnormal or potentially damaging ground vibrations may result from blasting [the department believes that a blaster is operating illegally under the provisions of these regulations], the department may require a seismograph recording of any or all blasts.

THEODORE T. COLLEY, Secretary
CARL ANKROM, Acting Commissioner
LARRY C. SCHNEIDER, Director
APPROVED BY AGENCY: April 8, 1991
FILED WITH LRC: April 10, 1991 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Friday, May 24, 1991 at 10 a.m. in the Conference Room of the Department of Mines and Minerals, 3572 Ironworks Pike, Lexington, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by May 19, 1991, 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 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 attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Larry Schneider, Kentucky Department of Mines and Minerals, P. O. Box 14080, Lexington, Kentucky 40512.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Larry Schneider

(1) Type and number of entities affected: The 3550 licensed blasters employed in the Commonwealth will be affected by this regulation.

(a) Direct and indirect costs or savings to those affected: There will be no added costs or savings since the majority of blasters already operate seismographs when they are blasting in critical areas.

1. First year: None
2. Continuing costs or savings: None
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 or paperwork requirements in this regulation.

(a) Direct and indirect costs or savings: There will be no effect on the Department of Mines and Minerals due to this regulation.

1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: There are no additional reporting or 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: There are no alternative methods other than seismic monitoring that are useful in evaluating the potential for structural damage due to blasting vibrations.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no conflicts between this regulation and other statutes, regulations, or 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:

(6) Any additional information or comments: The purpose of this regulation is to permit the department to require seismic monitoring of blasting vibrations when the potential exists for these vibrations to damage nearby structures. The current regulation allows the department to require such monitoring only if it believes that the blaster is operating illegally. However, the fact that the vibrations are legal does not preclude the possibility of damage.

TIERING: Was tiering applied? No. Tiering was not applied since the need to monitor ground vibrations, when there is potential for damage, cannot be categorized or distinguished by types of blasting operations.

PUBLIC PROTECTION & REGULATION CABINET
Department of Mines and Minerals
Division of Explosives and Blasting
(Proposed Amendment)

805 KAR 4:050. Records.

RELATES TO: KRS 351.320, 351.330, 351.340[, 351.990]

STATUTORY AUTHORITY: KRS Chapter 13A, 351.340

NECESSITY AND FUNCTION: KRS 351.330 requires the Department of Mines and Minerals to require

blasters to keep records. This regulation specifies what records are to be kept.

Section 1. [Records.] A record of each blast shall be kept. All records including seismograph reports shall be retained at least five (5) years and shall be available for inspection by the Department of Mines and Minerals and shall contain the following minimum data:

(1) Name of company or contractor.

(2) Exact location of the blast, date and time of detonation [blast].

(3) Name, signature and license number of blaster in charge.

(4) Type of material blasted.

(5) Number of holes, burden and spacing.

(6) Diameter and depth of holes.

(7) Types of explosives used.

(8) Total amount of explosives used.

(9) Maximum amount of explosives per delay period of eight (8) milliseconds or greater.

(10) Method of firing and type of circuit.

(11) Direction, [and] distance in feet, and identification of the [to] nearest dwelling house, public building, school, church, commercial or institutional building neither owned nor leased by the person conduction the blasting.

(12) Weather conditions.

(13) Type and height or length of stemming.

(14) A statement as to whether [If] mats or other protections against flyrock were used.

(15) Type of delay electric blasting caps used and delay periods used.

(16) The person taking the seismograph reading shall accurately indicate exact location of seismograph if used and shall also show the distance of seismograph from blast.

(17) Seismograph records, where required:

(a) Name of person and firm analyzing the seismograph record.

(b) Seismograph reading.

(18) Maximum number of holer per delay period of eight (8) milliseconds or greater.

(19) Sketch of blast pattern including number of holes, burden and spacing distance delay pattern, and if decking is used, a hole profile.

THEODORE T. COLLEY, Secretary
CARL ANKROM, Acting Commissioner
LARRY C. SCHNEIDER, Director

APPROVED BY AGENCY: April 8, 1991

FILED WITH LRC: April 10, 1991 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Friday, May 24, 1991 at 10 a.m. in the Conference Room of the Department of Mines and Minerals, 3572 Ironworks Pike, Lexington, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by May 19, 1991, 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 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 attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Larry Schneider, Kentucky Department of Mines and Minerals, P. O. Box 14080, Lexington, Kentucky 40512.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Larry Schneider

(1) Type and number of entities affected: The 3550 licensed blasters employed in the Commonwealth will be affected by this regulation.

(a) Direct and indirect costs or savings to those affected: There will be no added costs or savings since this regulation only modifies information contained on records the blasters are already required to keep.

1. First year: None

2. Continuing costs or savings: None

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: This regulation will add 2 items to a record that the blaster is already keeping. These items are: identification of the structure nearest the blasting operation, and a sketch of the blast pattern. Both of these items are minor additions to a record presently being kept.

(2) Effects on the promulgating administrative body: There will be no effect on the Department of Mines and Minerals due to this regulation.

(a) Direct and indirect costs or savings: There will be no additional direct or indirect costs or savings to the administrative agency.

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: There are no additional reporting or paperwork requirements for the administrative agency.

(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: There are no alternative methods that would accomplish the purpose of this regulation. The problems associated with assessing compliance of detonations in the vicinity of neighboring structures are compounded when the identification of the nearest structure is not made. Likewise, the trend toward the use of more complex delay systems makes a sketch of the blast pattern essential for understanding the method of blasting being used, and ultimately the amount of explosives per delay interval.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no conflicts between this regulation and other statutes, regulations, or 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:

(6) Any additional information or comments: The purpose of this regulation is to permit the department to better decipher the blasting records currently being kept and required to be maintained by statute, KRS 351.360. The modifications are minor and will be beneficial to both the administrative agency as well as the

blaster and his employer. Several amendments of certain individual words and phrases are intended to clarify the language and meaning of the subsections in which they are contained.

TIERING: Was tiering applied? No. Tiering was not aplied since the need to keep accurate and complete records of blasting is the same for all types of blasting operations.

PUBLIC PROTECTION & REGULATION CABINET
Department of Mines and Minerals
Division of Explosives and Blasting
(Proposed Amendment)

805 KAR 4:060. Blasting safety.

RELATES TO: KRS 351.320, 351.330, 351.340[, 351.990]

STATUTORY AUTHORITY: KRS Chapter 13A, 351.340

NECESSITY AND FUNCTION: KRS 351.330 requires the Department of Mines and Minerals to provide rules and regulations for blasting near public highways, streams, dwelling houses, public buildings, schools, churches and commercial and institutional buildings. This regulation provides those rules and regulations.

Section 1. [Blasting Safety. (1) When blasting operations, other than those conducted at a fixed site as a part of any industry or business operated at such site, are to be conducted within 200 feet of a pipe line, the blaster or person in charge of the blasting operations shall take due precautionary measures for the protection of the line and shall notify the owner of the line or his agent that such blasting operations are intended.]

[(2) Blasting operations near streams shall be prohibited in all cases where the effect of the blasting is liable to change the course or channel of any stream without first obtaining a permit from the department which has been approved by the Division of Water, Natural Resources and Environmental Protection Cabinet.]

[(3) Mud capping in blasting operations shall be permitted only where it would endanger the safety of the workmen to drill the rock or material to be blasted. If mud capping is necessary, no more than ten (10) pounds of explosives shall be used for each charge.]

[(4) All trunk lines of detonating cord may be covered, except that trunk lines of detonating cord must be covered if located within 800 feet of any public highway, dwelling house, public building, school, church, commercial or institutional building.]

[(5) When the use of detonating cord would cause severe concussion, the department may cause all trunk lines to be covered by five (5) to six (6) inches of loose earth.]

[(6) In blasting operations, flying rocks shall not be allowed to fall greater than one-half (1/2) the distance between the blast and a dwelling house, public building, school, church, commercial or institutional building. Protective material should be used to insure this limit.]

(1) [(7)] When operating within 800 feet of a highway if there is chance of flying rock landing on the highway, traffic must be stopped at a safe distance. Blasted material shall not be thrown on a public highway in sufficient quantity to impede traffic, and any material thrown on a highway shall [must] be removed promptly.

(2) [(8)] Where a blasting operation is conducted in the vicinity of an active deep mine, the blaster shall observe all procedures necessary to secure the health and safety of the deep mine workers.

(3) [(9)] Blasting operations shall be conducted during daylight hours (one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset) except by special permit issued by the Department of Mines and Minerals. Said permit shall [to] be issued on the basis of safety.

(4) [(10)] If, as a result of a blast, the vibrational levels are exceeded or material is hurled through the air causing damage to homes or other property, or causing personal injury or death, or endangering public safety, health and general welfare in violation of any standard promulgated by this agency [these regulations], the department may consider this due cause for revocation of blaster's license and invoke penalties according to KRS 351.990.

(5) [(11)] The contractor or operator as well as the blaster shall be responsible for the conduct of blasting on any operation.

(6) Nothing contained herein shall [(12) These regulations are in no way intended to] relieve the contractor or operator or other persons of responsibility and liability under any other laws.

THEODORE T. COLLEY, Secretary
CARL ANKROM, Acting Commissioner
LARRY C. SCHNEIDER, Director
APPROVED BY AGENCY: April 8, 1991
FILED WITH LRC: April 10, 1991 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Friday, May 24, 1991 at 10 a.m. in the Conference Room of the Department of Mines and Minerals, 3572 Ironworks Pike, Lexington, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by May 19, 1991, 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 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 attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Larry Schneider, Kentucky Department of Mines and Minerals, P. O. Box 14080, Lexington, Kentucky 40512.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Larry Schneider

(1) Type and number of entities affected: The 3550 licensed blasters employed in the Commonwealth will be affected by this regulation.

(a) Direct and indirect costs or savings to those affected: There will be no added costs or savings.

1. First year: None
2. Continuing costs or savings: None
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 reporting or paperwork requirements.

(2) Effects on the promulgating administrative body: There will be no effect on the Department of Mines and Minerals due to this regulation.

(a) Direct and indirect costs or savings: There will be no additional direct or indirect costs or savings to the administrative agency.

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: There are no additional reporting or paperwork requirements for the administrative agency.

(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: There are no alternative methods to the proposed amendment. The changes being made are intended to better organize the current regulation by moving those subsections relating to detonating cord to the regulation dealing exclusively with detonating cord.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no conflicts between this regulation and other statutes, regulations, or 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:

(6) Any additional information or comments: The purpose of this amendment is to merge all requirements regarding detonating cord into the existing regulation dealing with that topic. Therefore subsections (4) and (5) are deleted from this regulation and will be appended to 805 KAR 4:120. Subsections (1), (2), (3), and (6) are deleted in order to comply with KRS Chapter 13A, which prohibits an administrative regulation that repeats statutory language. The aforementioned subsections reiterate language found in KRS 351.315. Other amendments of certain phrases are intended to clarify the language and meaning of the subsections in which they are contained.

TIERING: Was tiering applied? No. Tiering was not applied since distinctions by categories cannot be made with regard to these fundamental safety requirements. Therefore this amendment affects all blasters and blasting operations equally.

PUBLIC PROTECTION & REGULATION CABINET
Department of Mines and Minerals
Division of Explosives and Blasting
(Proposed Amendment)

805 KAR 4:075. General blasting provisions.

RELATES TO: KRS 351.350[, 351.990]

STATUTORY AUTHORITY: KRS Chapter 13A, 351.335

NECESSITY AND FUNCTION: KRS 351.335 requires the Department of Mines and Minerals to promulgate rules and regulations concerning the manufacture, transportation, sale, storage, or use of explosives and unassembled components of explosives, and the maintenance of such explosives which has a direct bearing on safety to life and property. This regulation effects the provisions of that law.

Section 1. [General Blasting Provisions.] (1) An [The] employer shall permit only authorized and qualified persons to handle and use explosives.

(2) Smoking, firearms, matches, open flame lamps, and other fires, flame, or heat producing devices and sparks shall be prohibited in or near explosive magazines or while explosives are being handled, transported, or used.

(3) No person shall be allowed to handle or use explosives while under the influence of intoxicating liquors, narcotics, or other dangerous drugs.

(4) All explosives shall be accounted for at all times. Explosives not being used shall be kept in a locked magazine, unavailable to persons not authorized to handle them. The employer shall maintain an inventory and use record of all explosives. Appropriate authorities shall be notified of any loss, theft, or unauthorized entry into a magazine.

(5) No explosives or blasting agents shall be abandoned.

(6) No fire shall be fought where the fire is in imminent danger of contact with explosives. All employees shall be removed to a safe area and the fire area guarded against intruders.

(7) Original containers or equivalent packaging materials [Class II magazines], shall be used for taking detonators and other explosives from storage magazines to the blasting area.

(8) When blasting is done in congested areas or in proximity to a structure, railway, or highway, or any other installation that may be damaged, the blaster shall take special precautions in the loading, delaying, initiation, and confinement of each blast with mats or other methods so as to control the throw of fragments, and thus prevent bodily injury or death [to employees].

(9) Employees authorized to prepare explosive charges or conduct blasting operations shall use every reasonable precaution including, but not limited to, visual and audible warning signals, flags, or barricades, to ensure [employee] safety to all persons.

(10) In so far as possible, blasting operations above ground shall be conducted between sunup and sundown.

[(11) Due precautions shall be taken to prevent accidental discharge of electric blasting caps or explosives from current induced by radar, radio transmitters, lightning, adjacent power lines, dust storms, or other sources of extraneous electricity. These precautions shall include:]

[(a) Detonators shall be short-circuited in holes which have been primed and shunted until wired into the blasting circuit.]

[(b) The suspension of all blasting operations and removal of persons from the blasting area during the approach and progress of an electric storm.]

[(c) The prominent display of adequate signs, warning against the use of mobile radio transmitters, on all roads within 1,000 feet of blasting operations. Whenever adherence to the 1000-foot distance would create an operational

handicap, this distance may be modified so long as the modification is adequately designed in compliance with 805 KAR 4:075(11)(e) to prevent any premature firing of electric blasting caps. Specimens of signs which would meet these requirements are as follows:]

["Blasting Zone 1000 feet" (about forty-eight (48) inches X forty-eight (48) inches); "Turn off Two (2) way Radio" (about forty-two (42) inches X thirty-six (36) inches). This paragraph shall not apply to surface mining operations.]

[(d) Mobile radio transmitters which are less than 100 feet away from electric blasting caps in other than original containers, may be left "on" for receiving purposes but may only be used to transmit if in compliance with paragraph (e) of this subsection.]

[(e) Compliance with the recommendations of The Institute of Makers of Explosives with regard to blasting in the vicinity of radio transmitters as stipulated in Radio Frequency Energy - A Potential Hazard in the use of Electric Blasting Caps, IME Publication No. 20, March 1971.]

(11) [(12)] Empty boxes and paper and fiber packing materials which have previously contained high explosives shall not be used again for any purpose, but shall be destroyed by burning at an approved location.

(12) [(13)] Explosives, blasting agents, and blasting supplies that are obviously deteriorated or damaged shall not be used.

(13) [(14)] Delivery and issue of explosives shall only be made by and to authorized persons and into authorized magazines or approved temporary storage or handling areas.

(14) [(15)] Blasting operations in the proximity of overhead power lines, communication lines, utility services, or other services or structures shall not be carried on until the operators and/or owners have been notified at least twenty-four (24) hours in advance and measures for safe control have been taken.

(15) [(16)] The use of black powder shall be prohibited, except when a desired result cannot be obtained with another type of explosive such as in quarrying certain types of dimension stone.

(16) [(17)] All loading and firing shall be directed and supervised by competent persons thoroughly experienced in this field.

[(18) All electric blasts shall be fired with an electric blasting machine or properly designed electric power source, and in accordance with the provisions of 805 KAR 4:110(1) and (18).]

(17) [(19)] No one shall be permitted to carry detonators or primers of any kind on his person; provided, however, that it shall not be unlawful to carry detonators or primers in one's hands.

THEODORE T. COLLEY, Secretary
CARL ANKROM, Acting Commissioner
LARRY C. SCHNEIDER, Director
APPROVED BY AGENCY: April 8, 1991
FILED WITH LRC: April 10, 1991 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Friday, May 24, 1991 at 10 a.m. in the Conference Room of the Department of Mines and Minerals, 3572 Ironworks Pike, Lexington, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by May 19, 1991, 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 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 attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Larry Schneider, Kentucky Department of Mines and Minerals, P. O. Box 14080, Lexington, Kentucky 40512.,

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Larry Schneider

(1) Type and number of entities affected: The 3550 licensed blasters employed in the Commonwealth will be affected by this regulation.

(a) Direct and indirect costs or savings to those affected: There will be no added costs or savings.

1. First year: None
2. Continuing costs or savings: None
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 reporting or paperwork requirements.

(2) Effects on the promulgating administrative body: There will be no effect on the Department of Mines and Minerals due to this regulation.

(a) Direct and indirect costs or savings: There will be no additional direct or indirect costs or savings to the administrative agency.

1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: There are no additional reporting or paperwork requirements for the administrative agency.

(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: There are no acceptable alternative methods. The changes being made are to better organize the current regulation by deleting those subsections relating to electric blasting from this regulation and adding them to 805 KAR 4:110 which deals specifically with electric blasting. The changes in subsections (8) and (9) are made since all people should be equally protected from the the effects of blasting; precautions taken should not be limited to employees.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no conflicts between this regulation and other statutes, regulations, or 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:

(6) Any additional information or comments: One purpose of this amendment is to merge all requirements regarding electric blasting into

the existing regulation dealing with that topic. The other amendment is to require that all persons working or living near the blasting operations be protected from the detrimental effects of blasts rather than limiting such protective measures to employees of the operation. In subsection (7), the replacement of original packing materials for Class II magazines is required, since the purpose of this regulation is not defining conditions of vehicular transportation but rather the packaging of the materials when being moved. There is a separate regulation pertaining to transportation that specifies when a Class II magazine is necessary.

TIERING: Was tiering applied? No. Tiering was not applied since distinctions by categories cannot be made with regard to these fundamental safety requirements. Therefore, this amendment affects all blasters and blasting operations equally.

PUBLIC PROTECTION & REGULATION CABINET
Department of Mines and Minerals
Division of Explosives and Blasting
(Proposed Amendment)

805 KAR 4:085. Dealer registration; record requirements.

RELATES TO: KRS 351.350[, 351.990]
STATUTORY AUTHORITY: KRS Chapter 13A, 351.335
NECESSITY AND FUNCTION. KRS 351.335 requires the Department of Mines and Minerals to promulgate rules and regulations concerning the manufacture, transportation, sale, storage, or use of explosives and unassembled components of explosives and unassembled components of explosives, and the maintenance of such explosives which has a direct bearing on safety to life and property. This regulation effects the provisions of that law.

Section 1. Dealer Registration. Each person intending to engage in business as an importer or a manufacturer of, or a dealer in, explosive materials shall, before commencing such business, be required annually to register with the Department of Mines and Minerals. Each person shall annually fill out the registration form (EC-12) [(E&B 36)] provided by the department.

Section 2. Record Requirements. (1) Each person, corporation or entity engaged in the manufacture, purchase, distribution or selling, of explosives[, including importers, manufacturer, manufacturer limited, or dealer] shall maintain, in a permanent form, such records of importation, production, shipment, receipt, sale or other disposition.

(2) All records shall be retained for a period of not less than five (5) years from the date the transaction occurs or until discontinuance of business or operations. All records shall be subject to inspection and examination by the Department of Mines and Minerals.

(3) The records required to be maintained pursuant to [prescribed by] Title 26, part 55.121-55.129 [181.121-181.129] of the Code of Federal Regulations of the Bureau [Division] of Alcohol, Tobacco, and Firearms shall satisfy the requirements of this section.

Section 3. Magazine Identification. (1) All permanent, fixed, or stationary magazines shall be registered annually with the Department of Mines and Minerals. Registration forms EC-11 shall [(E&B 35) will] be furnished by the department.

(2) All portable magazines shall have identification tags. Semitrailers containing blasting agents are excluded from this requirement provided they have a current license plate attached.

(3) The identification tags shall be approximately three (3) inches long by two (2) inches wide and shall be lettered or painted directly onto the magazine or attached such that normal use and weather will not render the tag illegible.

(4) The tags shall provide the following information:

(a) Name of owner;

(b) Address;

(c) Person responsible for security of the magazine; and

(d) Telephone number.

THEODORE T. COLLEY, Secretary
CARL ANKROM, Acting Commissioner
LARRY C. SCHNEIDER, Director
APPROVED BY AGENCY: April 8, 1991
FILED WITH LRC: April 10, 1991 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Friday, May 24, 1991 at 10 a.m. in the Conference Room of the Department of Mines and Minerals, 3572 Ironworks Pike, Lexington, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by May 19, 1991, 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 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 attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Larry Schneider, Kentucky Department of Mines and Minerals, P. O. Box 14080, Lexington, Kentucky 40512.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Larry Schneider

(1) Type and number of entities affected: The 3550 licensed blasters employed in the Commonwealth and those who store explosives in portable magazines will be affected by this regulation.

(a) Direct and indirect costs or savings to those affected: There will be some slight savings in that trailers will no longer need separate identification tags if they are properly licensed. The cost of identification tags for all trailers used to store blasting agents would amount to about $5 for each of the approximately 750 trailers in the Commonwealth used for this purpose.

1. First year: $3750.00
2. Continuing costs or savings: $3750.00

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: This regulation reflects the change in form numbers assigned to dealer registrations and magazine registrations. However, the actual forms which are completed annually are unchanged.

(2) Effects on the promulgating administrative body: There will be no effect on the Department of Mines and Minerals due to this regulation.

(a) Direct and indirect costs or savings: There will be no additional direct or indirect costs or savings to the administrative agency.

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: There are no additional reporting or paperwork requirements for the administrative agency.

(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: There are no alternative methods to accomplish the purposes of this proposed amendment. The changes being made reflect new form numbers, rather than any change in the forms themselves. With regard to trailers, continued insistence on identification tags is an unnecessary duplication since the motor vehicle license, if up-to-date, adequately identifies the trailer's owner.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no conflicts between this regulation and other statutes, regulations, or 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:

(6) Any additional information or comments: The purpose of these amendments is to update new form numbers and federal regulation numbers referenced in this regulation. The amendment in subsection (2) is made in recognition that license plates on trailers are an adequate means of identification.

TIERING: Was tiering applied? Yes. Tiering was used in recognition that trailers already have a means of identifying ownership via the license plates. Therefore, there is no need for a separate identification tag placed on the trailer. Other magazines which carry no other identifying display, require a specific identification tag.

PUBLIC PROTECTION & REGULATION CABINET
Department of Mines and Minerals
Division of Explosives and Blasting
(Proposed Amendment)

805 KAR 4:087. Explosives.

RELATES TO: KRS 351.350[, 351.990]

STATUTORY AUTHORITY: KRS Chapter 13A, 351.335

NECESSITY AND FUNCTION: KRS 351.335 requires the Department of Mines and Minerals to promulgate rules and regulations concerning the manufacture, transportation, sale, storage, or use of explosives and unassembled components of explosives, and the maintenance of such explosives which has a direct bearing on safety to life and property. This regulation effects the provisions of that law.

Section 1. [Explosives.] (1) Explosive magazines shall be posted with suitable danger signs so located that a bullet passing through the face of a sign will not strike the magazine.

(2) Containers of explosives or blasting agents shall be stacked in a stable manner, but not more than eight (8) feet high.

(3) Ammonium nitrate fuel oil blasting agents shall be physically separated from other explosives, safety fuse, or detonating cord stored in the same magazine and in such a manner that oil does not contaminate the other explosives, safety fuse or detonating cord.

(4) Special precautions shall be taken when blasting in close proximity to underground operations, and no blasting shall be done which would be hazardous to persons working underground.

(5) Only nonsparking implements shall be used to punch holes in an explosive cartridge.

(6) Delay connectors for firing detonating cord shall be treated and handled with the same safety precautions as blasting caps and electric detonators.

(7) Primers containing a detonator shall be prepared with the detonator container securely and completely within the explosive charge or within a suitable tunnel or cap well.

(8) Explosives or blasting agents shall be kept separate from detonators until charging is started.

[(9) When blasting electrically, a blasting galvanometer, blasting ohmmeter, or blasting multimeter designed specifically for the purpose of testing electric caps and circuits containing electric blasting caps, shall be used to test:]

[(a) Resistance of individual caps, series of caps, or the resistance of multiple balanced series to be connected in parallel prior to their connection to the blasting line.]

[(b) Continuity of blasting lines prior to the connection of electric blasting cap series; and]

[(c) Total blasting circuit resistance prior to connection to the power source.]

(9) [(10)] Ammonium nitrate and the components used for the sensitizing thereof shall be stored, mixed, transported and used in accordance with the recommendations in Bureau of Mines Information Circular 8179, "Safety Recommendations for Sensitized Ammonium Nitrate Blasting Agents," or subsequent revisions.

(10) Excessive force shall not be used in assembling any connecting device or primer cartridges. No tool shall be used to dislodge a detonator, or a component containing a detonator, from a primer.

(11) A cast primer or booster shall not be used if the hole for the detonator is too small to accept the detonator; no one shall enlarge a hole or cap well in a cast primer or booster to accept a detonator.

(12) No detonator shall come in contact with a high explosive cartridge until the primer is being assembled, and immediately upon assembly, the primer shall be loaded into the borehole.

THEODORE T. COLLEY, Secretary
CARL ANKROM, Acting Commissioner

LARRY C. SCHNEIDER, Director
APPROVED BY AGENCY: April 8, 1991
FILED WITH LRC: April 10, 1991 at 9 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Friday, May 24, 1991 at 10 a.m. in the Conference Room of the Department of Mines and Minerals, 3572 Ironworks Pike, Lexington, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by May 19, 1991, 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 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 attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Larry Schneider, Kentucky Department of Mines and Minerals, P. O. Box 14080, Lexington, Kentucky 40512.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Larry Schneider
(1) Type and number of entities affected: The 3550 licensed blasters employed in the Commonwealth will be affected by this regulation.
(a) Direct and indirect costs or savings to those affected: There will be no added costs or savings.
1. First year: None
2. Continuing costs or savings: None
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 reporting or paperwork requirements.
(2) Effects on the promulgating administrative body: There will be no effect on the Department of Mines and Minerals due to this regulation.
(a) Direct and indirect costs or savings: There will be no additional direct or indirect costs or savings to the administrative agency.
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.
(b) Reporting and paperwork requirements: There are no additional reporting or paperwork requirements for the administrative agency.
(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: There are no acceptable alternative methods. The reason for the changes being made is to better organize the current regulations by deleteing those subsections relating to electric blasting from this regulation and adding them to another regulation which deals specifically with electric blasting. The amendments added in subsections (10), (11), and (12) are made to address new concerns relating to the handling, assembling, and loading of explosive primers. There are no safe alternatives to these industry-standard methods.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping or duplication: There are no conflicts between this regulation and other statutes, regulations, or 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:
(6) Any additional information or comments: One purpose of this amendment is to merge all requirements regarding electric blasting into the existing regulation dealing with that topic. This amendment also provides specific task-related safety procedures. These procedures are widely accepted and directly associated with safety of the blaster and his co-workers.
TIERING: Was tiering applied? No. Tiering was not used since distinctions by categories cannot be made with regard to these fundamental safety requirements. Therefore this amendment affects all blasters and blasting operations equally.

PUBLIC PROTECTION & REGULATION CABINET
Department of Mines and Minerals
Division of Explosives and Blasting
(Proposed Amendment)

805 KAR 4:100. Surface transportation of explosives.

RELATES TO: KRS 351.350[, 351.990]
STATUTORY AUTHORITY: KRS Chapter 13A, 351.335
NECESSITY AND FUNCTION: KRS 351.335 requires the Department of Mines and Minerals to promulgate rules and regulations concerning the manufacture, transportation, sale, storage, or use of explosives and unassembled components of explosives, and the maintenance of such explosives which has a direct bearing on safety to life and property. This regulation effects the provisions of that law.

Section 1. [Surface Transportation of Explosives.] (1) Transportation of explosives, blasting agents, and blasting supplies, shall be in accordance with [meet] the provisions of Department of Transportation regulations contained in 14 CFR Part 103, Air Transportation; 46 CFR Parts 146-149, Water Carriers; 49 CFR Parts 171-179, Highways and Railways; and 49 CFR Parts 390-397, Motor Carriers; all as amended.
(2) Motor vehicles or conveyances transporting explosives shall only be driven by, and be in the charge of, a licensed driver who is physically fit. He shall be familiar with the local, state and federal regulations governing the transportation of explosives.
(3) No person shall smoke, or carry matches or any other flame-producing device, nor shall firearms or loaded cartridges be carried while in or near a motor vehicle or conveyance transporting explosives, blasting agents, and blasting supplies.
(4) Explosives or blasting agents shall not be transported with other materials or cargoes in the same compartment. In no case shall flammable material be carried on the same vehicle as explosives.
(5) Explosives or blasting agents shall be

transported in separate vehicles from detonators unless:

(a) The detonators are placed in a type 2 or type 3 magazine secured within the body of the truck; or

(b) The detonators and explosives are separated by four (4) inches of hardwood, and the detonators are totally enclosed or confined by the hardwood construction; or

(c) The detonators are placed in suitable containers or compartments constructed in accordance with the Institute of Makers of Explosives Safety Library Publication No. 22, entitled "IME Standard for the Safe Transportation of Electric Blasting Caps in the Same Vehicle with Other Explosives" or revisions thereof.

(6) Vehicles used for transporting explosives shall be strong enough to carry the load without difficulty, and shall be in good mechanical condition.

(7) When Class A, B, or C explosives are transported by a vehicle with an open body, a Class II magazine or original manufacturer's container shall be securely mounted within the bed to contain the cargo. No explosives shall be stacked higher than the sides or the tailgate of the vehicle. Blasting agents shall be loaded in a stable manner so that they cannot fall from the vehicle.

(8) All vehicles used for the transportation of explosives shall have tight floors and any exposed spark-producing metal on the inside of the body shall be covered with wood, or other nonsparking material, to prevent contact with containers of explosives.

(9) Every motor vehicle or conveyance used for transporting Class A or B explosives shall be marked or placarded on both sides, [the] front and rear, with either the word "explosives" in red letters not less than four (4) inches in height, on white background, or the Transportation Cabinet-approved orange and black, square on point, explosives placards.

(10) Every vehicle or conveyance transporting blasting agents shall be placarded on front, back and both sides with the words "Blasting Agent".

(11) [(10)] Each vehicle used for transportation of explosives shall be equipped with a fully charged fire extinguisher, in good condition. An Underwriters Laboratory-approved extinguisher of not less than ten (10) ABC rating will meet the minimum requirement. The driver shall be trained in the use of the extinguisher on his vehicle.

(12) [(11)] Motor vehicles or conveyances carrying explosives, blasting agents, or blasting supplies, shall not be taken inside a garage or shop for repairs or servicing.

(13) [(12)] No motor vehicle transporting explosives shall be left unattended.

THEODORE T. COLLEY, Secretary
CARL ANKROM, Acting Commissioner
LARRY C. SCHNEIDER, Director
APPROVED BY AGENCY: April 8, 1991
FILED WITH LRC: April 10, 1991 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Friday, May 24, 1991 at 10 a.m. in the Conference Room of the Department of Mines and Minerals, 3572 Ironworks Pike, Lexington, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by May 19, 1991, 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 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 attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Larry Schneider, Kentucky Department of Mines and Minerals, P. O. Box 14080, Lexington, Kentucky 40512.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Larry Schneider

(1) Type and number of entities affected: The 3550 licensed blasters employed in the Commonwealth and engaged in the transportation of explosives will be affected by this regulation, as amended.

(a) Direct and indirect costs or savings to those affected: There will be no added costs or savings.

1. First year: None
2. Continuing costs or savings: None
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 reporting or paperwork requirements.

(2) Effects on the promulgating administrative body: There will be no effect on the Department of Mines and Minerals due to this regulation.

(a) Direct and indirect costs or savings: There will be no additional direct or indirect costs or savings to the administrative agency.

1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: There are no additional reporting or paperwork requirements for the administrative agency.

(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: There are no alternative methods since no new requirements are being proposed. The changes being made are to clarify and conform the language of the regulation to standard practice and interpretation as currently enforced.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no conflicts between this regulation and other statutes, regulations, or 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:

(6) Any additional information or comments: The purpose of this amendment is to emphasize the distinction in the classes of explosives

being transported and clarify the placarding requirements applicable to the vehicles hauling them. Other amendments of certain words and phrases are intended to clarify the language and meaning of the subsections in which they are contained.

TIERING: Was tiering applied? Yes. Tiering was used to distinguish the requirements for placarding different classes of explosive materials. These distinctions are justified due to differences in the sensitivity of the materials being transported and their varying detonation hazards.

PUBLIC PROTECTION & REGULATION CABINET
Department of Mines and Minerals
Division of Explosives and Blasting
(Proposed Amendment)

805 KAR 4:110. Initiation of explosive charges; electric blasting.

RELATES TO: KRS 351.350[, 351.990]
STATUTORY AUTHORITY: KRS Chapter 13A, 351.335
NECESSITY AND FUNCTION: KRS 351.335 requires the Department of Mines and Minerals to promulgate rules and regulations concerning the manufacture, transportation, sale, storage, or use of explosives and assembled components of explosives, and the maintenance of such explosives which has a direct bearing on safety to life and property. This regulation effects the provisions of that law.

Section 1. [Initiation of Explosive Charges; Electric Blasting.] (1) Electric blasting caps shall not be used where sources of extraneous electricity make the use of electric blasting caps dangerous. Blasting cap leg wires shall be kept short-circuited (shunted) until they are connected into the circuit for firing.

(2) Before adopting any system of electrical firing, the blaster shall conduct a thorough survey for extraneous currents, and all dangerous currents shall be eliminated before any holes are loaded.

(3) In any single blast using electric blasting caps, all caps shall be of the same style or function, and of the same manufacture.

(4) Electric blasting shall be carried out by using blasting circuits or power circuits in accordance with the electric blasting cap manufacturer's recommendations, or those of an approved contractor or his designated representative.

(5) When firing a circuit of electric blasting caps, care shall [must] be exercised to insure that an adequate quantity of delivered current is available, in accordance with the manufacturer's recommendations.

(6) Connecting wires and lead wires shall be insulated single solid wires of sufficient current-carrying capacity. In addition, the lead wire shall be of sufficient length to allow the blast to be detonated from a safe distance and location.

(7) Bus wires shall be solid single wires of sufficient current-carrying capacity.

(8) When firing electrically, the insulation on all firing lines shall be adequate and in good condition.

(9) A power circuit used for firing electric blasting caps shall not be grounded.

(10) In underground operations, when firing from a power circuit, a safety switch shall be placed in the permanent firing line at intervals. This switch shall be made so it can be locked only in the "off" position and shall be provided with a short-circuiting arrangement of the firing lines to the cap circuit.

(11) In underground operations there shall be a "lightning" gap of at least five (5) feet in the firing system ahead of the main firing switch; that is, between this switch and the source of power. This gap shall be bridged by a flexible jumper cord immediately [just] before firing the blast.

(12) When firing from a power circuit, the firing switch shall be locked in the open or "off" position at all times, except when firing. It shall be so designed that the firing lines to the cap circuit are automatically short-circuited when the switch is in the "off" position. Keys to this switch shall be entrusted only to the blaster.

(13) Blasting machines shall be in good condition and the efficiency of the machine shall be tested periodically to make certain that it can deliver power at its rated capacity.

(14) When firing with blasting machines, the connections shall be made as recommended by the manufacturer of the electric blasting caps used.

(15) The number of electric blasting caps connected to a blasting machine shall not be in excess of its rated capacity. Furthermore, [in primary blasting,] a series circuit shall contain no more caps than the limits recommended by the manufacturer of the electric blasting caps in use.

(16) The blaster shall be in charge of the blasting machines and no other person shall connect the leading wires to the machine except under the direction of the blaster.

(17) Blasters shall test all electric blasting caps and electric blasting cap circuits by using only a blasting galvanometer, blasting ohmmeter, or blasting multimeter, designed specifically for the purpose of testing individual electric blasting caps and circuits containing electric blasting caps. Such instruments shall [must] be clearly marked as being designed for such purposes, and shall be used in accordance with the manufacturer's recommendations.

(18) Whenever the possibility exists that a leading line or blasting wire might be thrown over a live powerline by the force of an explosion, care shall be taken to see that the total length of wires are kept too short to hit the lines, or that the wires are securely anchored to the ground. If neither of these requirements can be satisfied, a nonelectric system shall be used.

(19) Leading wires shall remain shorted and not be connected to the blasting machine or other source of current until the charge is to be fired.

(20) After firing an electric blast from a blasting machine, the leading wires shall be immediately disconnected from the machine and short-circuited.

(21) All blasting machines, other than rack-bar and twist type generators, shall have a normally open firing switch equipped with a spring device or other self-returning mechanism that automatically returns it to the nonfiring position after the shot has been detonated.

(22) Due precautions shall be taken to prevent accidental discharge of electric blasting caps or explosives from current induced by radar,

radio transmitters, lightning, adjacent powder lines, dust storms, or other sources of extraneous electricity. These precautions shall include:

(a) The shunting or shortcircuiting of detonators in holes which have been primed until wired into the blasting circuit.

(b) The suspension of all blasting operations and removal of persons from the blasting area during the approach and progress of an electric storm.

(c) The prominent display of adequate signs, warning against the use of mobile radio transmitters, on all roads within 1,000 feet of blasting operations. Whenever adherence to the 1,000-foot distance would create an operational handicap, this distance may be modified so long as the modification is adequately designed in compliance with paragraph (e) of this subsection to prevent any premature firing of electric blasting caps. Specimens of signs which satisfy these requirements are as follows:

Blasting Zone	Turn Off
1,000-ft.	2-Way Radio
about 48" X 48"	about 42" X 36"

This paragraph shall not apply to surface mining operations.

(d) Mobile radio transmitters which are less than 100 feet away from electric blasting caps in other than original containers may be left "on" for receiving purposes, but may only be used to transmit if in compliance with paragraph (e) of this subsection.

(e) Compliance with the recommendations of the Institute of Makers of Explosives with regard to blasting in the vicinity of radio transmitters as stipulated in "Safety Guide for the Prevention of Radio Frequency Radiation Hazards in the Use of Commercial Electric Detonators," IME Publication No. 20, December 1988, or revisions thereof.

(23) All electric blasts shall be fired with an electric blasting machine or power source designed specifically for detonating electric blasting caps.

(24) In parallel blasting circuits, the circuit shall be wired so that the resistances in all series are balanced.

(25) When blasting electrically, a blasting galvanometer, blasting ohmmeter, or blasting multimeter shall be used to test:

(a) Resistance of individual caps, series of caps, or the resistance of multiple balanced series to be connected in parallel prior to their connection to the blasting line;

(b) Continuity of blasting lines prior to the connection of electric blasting cap series; and

(c) Total blasting circuit resistance prior to connection in the power source.

(26) Immediately after the blast has been fired, the firing line shall be disconnected from the blasting machine, or where power switches are used, they shall be locked open or in the "off" position.

THEODORE T. COLLEY, Secretary
CARL ANKROM, Acting Commissioner
LARRY C. SCHNEIDER, Director

APPROVED BY AGENCY: April 8, 1991
FILED WITH LRC: April 10, 1991 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Friday, May 24, 1991 at 10 a.m. in the Conference Room of the Department of Mines and Minerals, 3572 Ironworks Pike, Lexington, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by May 19, 1991, 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 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 attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Larry Schneider, Kentucky Department of Mines and Minerals, P. O. Box 14080, Lexington, Kentucky 40512.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Larry Schneider

(1) Type and number of entities affected: The 3550 licensed blasters employed in the Commonwealth will be affected by this regulation.

(a) Direct and indirect costs or savings to those affected: There will be no added costs or savings.

1. First year: None
2. Continuing costs or savings: None
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 reporting or paperwork requirements.

(2) Effects on the promulgating administrative body: There will be no effect on the Department of Mines and Minerals due to this regulation.

(a) Direct and indirect costs or savings: There will be no additional direct or indirect costs or savings to the administrative agency.

1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: There are no additional reporting or paperwork requirements for the administrative agency.

(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: There is no alternative method, since these amendments are being made to better organize the current regulations by merging those subsections relating to electric blasting in other regulations to this regulation, which is applicable to electric blasting.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no conflicts between this regulation and other statutes, regulations, or 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:

(6) Any additional information or comments: The purpose of this amendment is to merge all requirements regarding electric blasting into the existing regulation dealing with that topic. The requirements added in this amendment are not new requirements. Rather, they are subsections that previously were contained in other regulations on general blasting safety.

TIERING: Was tiering applied? No. Tiering was not applied, since distinctions by categories cannot be made with regard to these fundamental safety requirements. Therefore, this amendment affects all blasters and blasting operations equally.

PUBLIC PROTECTION & REGULATION CABINET
Department of Mines and Minerals
Division of Explosives and Blasting
(Proposed Amendment)

805 KAR 4:120. Detonating cords.

RELATES TO: KRS 351.350[, 351.990]
STATUTORY AUTHORITY: KRS Chapter 13A, 351.335
NECESSITY AND FUNCTION: KRS 351.335 requires the Department of Mines and Minerals to promulgate rules and regulations concerning the manufacture, transportation, sale, storage, or use of explosives and unassembled components of explosives, and the maintenance of such explosives which has a direct bearing on safety to life and property. This regulation effects the provisions of that law.

Section 1. [Use of Detonating Cords.] (1) The blaster shall [Care shall be taken to] select a detonating cord consistent with the type and physical condition of the borehole and stemming and the type of explosives used.

(2) Detonating cord shall be handled and used with the same respect and care given other explosives.

(3) The line of detonating cord extending out of a borehole or from a charge shall be cut from the supply spool before loading the remainder of the borehole or placing additional charges.

(4) Detonating cords shall be handled and used with care to avoid damaging or severing the cord during and after loading and hooking-up.

(5) Detonating-cord connections shall be competent and positive in accordance with approved and recommended methods. Knot type or other cord-to-cord connections shall be made only with detonating cords in which the explosive core is dry.

(6) All detonating-cord trunk lines and branch lines shall be free of loops, sharp kinks, or angles that direct the cord back toward the oncoming line of detonation.

(7) All detonating-cord connections shall be inspected before firing the blast.

(8) When detonating-cord millisecond-delay connectors or short-interval-delay electric blasting caps are used with detonating cords, such use [the practice] shall conform strictly with the manufacturer's recommendations.

(9) When connecting a blasting cap or an electric blasting cap to a detonating cord, the cap shall be taped or otherwise attached securely along the side or the end of the detonating cord, with the end of the cap containing the explosive charge pointed in the direction in which the detonation is to proceed.

(10) Detonators for firing the trunk line shall not be [brought to the loading area nor] attached to the detonating cord until everything else is in readiness for the blast.

(11) All trunk lines of detonating cord shall be covered if located within 800 feet of any public highway, dwelling house, public building, school, church, commercial or institutional building.

(12) When the use of detonating cord would cause severe concussion, the department may cause all trunk lines to be covered by a minimum of six (6) inches of loose earth.

THEODORE T. COLLEY, Secretary
CARL ANKROM, Acting Commissioner
LARRY C. SCHNEIDER, Director
APPROVED BY AGENCY: April 8, 1991
FILED WITH LRC: April 10, 1991 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Friday, May 24, 1991 at 10 a.m. in the Conference Room of the Department of Mines and Minerals, 3572 Ironworks Pike, Lexington, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by May 19, 1991, 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 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 attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Larry Schneider, Kentucky Department of Mines and Minerals, P. O. Box 14080, Lexington, Kentucky 40512.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Larry Schneider

(1) Type and number of entities affected: The 3550 licensed blasters employed in the Commonwealth will be affected by this regulation.

(a) Direct and indirect costs or savings to those affected: There will be no added costs or savings.

1. First year: None
2. Continuing costs or savings: None
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 reporting or paperwork requirements.

(2) Effects on the promulgating administrative body: There will be no effect on the Department of Mines and Minerals due to this regulation.

(a) Direct and indirect costs or savings: There will be no additional direct or indirect costs or savings to the administrative agency.

1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: There are no additional reporting or paperwork requirements for the administrative agency.

(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: There are no acceptable alternative methods. The reason for the changes is to better organize the current regulations by adding those subsections relating to detonating cord blasting to this regulation, which is exclusively applicable to this topic.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no conflicts between this regulation and other statutes, regulations, or 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:

(6) Any additional information or comments: The primary purpose of this amendment is to consolidate all requirements regarding detonating cord into this existing regulation. Subsections (11) and (12) are not new requirements, but are only being moved from regulations dealing with general explosive safety into this regulation dealing specifically with detonating cord. Other amendments in subsections (1), (8), and (10) of certain words and phrases are intended to clarify the language and meaning of the subsections in which they are contained.

TIERING: Was tiering applied? No. Tiering was not used since distinctions by categories cannot be made with regard to these fundamental requirements. Therefore, this amendment affects all blasters and blasting operations equally.

PUBLIC PROTECTION & REGULATION CABINET
Department of Mines and Minerals
Division of Explosives and Blasting
(Proposed Amendment)

805 KAR 4:140. Misfires.

RELATES TO: KRS 351.350[, 351.990]

STATUTORY AUTHORITY: KRS Chapter 13A, 351.335

NECESSITY AND FUNCTION: KRS 351.335 requires the Department of Mines and Minerals to promulgate rules and regulations concerning the manufacture, transportation, sale, storage, or use of explosives and unassembled components of explosives, and the maintenance of such explosives which has a direct bearing on safety to life and property. This regulation effects the provisions of that law.

Section 1. [Misfires.] (1) If a misfire is found, the blaster shall provide proper safeguards for excluding all employees from the danger zone.

(2) No other work shall be done except that necessary to remove the hazard of the misfire and only those employees necessary to do the work shall remain in the danger zone.

(3) No attempt shall be made to extract explosives from any charged or misfired hole; a new primer shall be put in and the hole reblasted. If refiring on the misfired hole presents a hazard, the explosives may be removed by washing out with water or, where the misfire is under water, blown out with air.

(4) If there are any misfires while using cap and fuse, all employees shall remain away from the charge for at least one (1) hour. [Misfires shall be handled under the direction of the person in charge of the blasting. All wires shall be carefully traced and a search made for unexploded charges.]

(5) When electric blasting caps have been used, employees [men] shall not return to misfired holes for at least fifteen (15) minutes.

(6) When a completely nonelectric initiation system, other than safety fuse, has been used, persons shall not return to misfired holes for at least fifteen (15) minutes.

(7) [(6)] No drilling, digging, or picking shall be permitted until all missed holes have been detonated or the authorized representative has approved that work can proceed.

(8) Misfires shall be handled under the direction of the blaster in charge. All connections shall be carefully traced and a search made for unexploded charges.

(9) All misfires and premature detonations shall be reported to the department within three (3) days of such occurrence. The blaster shall provide information regarding the date and time of the occurrence, the type of explosives and initiation system used, and the cause of the malfunction if it is known.

THEODORE T. COLLEY, Secretary
CARL ANKROM, Acting Commissioner
LARRY C. SCHNEIDER, Director
APPROVED BY AGENCY: April 8, 1991
FILED WITH LRC: April 10, 1991 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Friday, May 24, 1991 at 10 a.m. in the Conference Room of the Department of Mines and Minerals, 3572 Ironworks Pike, Lexington, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by May 19, 1991, 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 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 attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Larry Schneider, Kentucky Department of Mines and Minerals, P. O. Box 14080, Lexington, Kentucky 40512.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Larry Schneider

(1) Type and number of entities affected: The 3550 licensed blasters employed in the Commonwealth will be affected by this regulation.

(a) Direct and indirect costs or savings to those affected: There will be no added costs or savings.

1. First year: None
2. Continuing costs or savings: None
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: Blasters will be required to report any premature detonations or misfires to the Department of Mines and Minerals. This reporting will include date and time of the accident, the type of explosives being used, and the cause of the detonation or misfire.

(2) Effects on the promulgating administrative body: There will be no effect on the Department of Mines and Minerals due to this regulation.

(a) Direct and indirect costs or savings: There will be no additional direct or indirect costs or savings to the administrative agency.

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: There are no additional reporting or paperwork requirements for the administrative agency.

(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: For the amendment in subsection (6), the alternative is to not distinguish between nonelectric and safety fuse detonation. This currently requires a one-hour wait, which is not justified by the dangers of a misfire using a nonelectric system. There is no feasible alternative to subsection (8), which purpose is to collect data on these potential accidents. For the department to properly evaluate the dangers of initiation systems, it must be able to gather data on the extent of the misfire problems and whether there are patterns that can be detected in the cause of these misfires.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no conflicts between this regulation and other statutes, regulations, or 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:

(6) Any additional information or comments: The purpose of the amendment contained in subsection (6) is to provide specific safety margin when a nonelectric initiator misfires. Currently, regulations require certain waiting times after a misfire using safety fuse detonation or when using electric blasting caps. However, there are none for nonelectric initiation. This amendment establishes a safe waiting time for this type of initiation. Due to the severe consequences which may result when a misfire or premature detonation occurs, the department needs information regarding these occurrences. Presently, the only data the department receives on these occurrences are gathered from accident investigations, which represent only a fraction of the total misfires and premature detonations that occur. In order to evaluate techniques, procedures and materials, the department must have as much information as possible on these potential accidents.

TIERING: Was tiering applied? No. Tiering was not applied since distinctions by categories cannot be made with regard to these fundamental safety requirements. Therefore, this amendment affects all blasters and blasting operations equally.

PUBLIC PROTECTION & REGULATION CABINET
Department of Housing, Buildings & Construction
Division of Plumbing
(Proposed Amendment)

815 KAR 20:020. Parts or materials list.

RELATES TO: KRS Chapter 318

STATUTORY AUTHORITY: KRS Chapter 13A, 318.130

NECESSITY AND FUNCTION: The department is directed by KRS 318.130 through the State Plumbing Code Committee to adopt and put into effect a State Plumbing Code. This regulation will allow the department to permit the use of new parts and materials without amending specific regulations for each new item. This regulation will eliminate the repetitious amending of the Plumbing Code now required to include new materials item by item. This amendment adds new products approved by the Plumbing Code Committee on March 13, 1991. [This amendment adds new products approved by the Plumbing Code Committee on November 7, 1990.]

Section 1. Definitions as used in this regulation. (1) "APML" shall mean the "Approved Parts or Materials List."

(2) "ABS" means acrylonitrile-butadiene-styrene pipe.

(3) "ASTM" means American Society for Testing Materials.

(4) "Parts or materials" shall mean all types of fittings and piping used in the soil, waste and vent systems, house sewers, potable water supply, plumbing fixtures, appurtenances, and mechanical sewage systems in plumbing systems.

(5) "Committee" shall mean the State Plumbing Code Committee.

(6) "Code" shall mean the State Plumbing Code.

(7) "Department" shall mean the Department of Housing, Buildings and Construction.

(8) "Person" shall mean any individual, public or private corporation, political subdivision, government agency, municipality, copartnership, association, firm, trust, estate, or other entity.

(9) "PVC" means polyvinyl chloride pipe.

Section 2. Approved Parts or Materials List (APML). The use of any part or material in any drainage or plumbing system, other than those currently authorized by the code, is prohibited unless the use of the part or material has been considered by the committee and approved by the department as being equal to or better than other similarly approved items for inclusion in the APML. The APML may also specify methods of installation or restrictions applicable to a particular part or material.

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

committee.

(2) The committee will consider all parts or materials for which approval is sought and will forward thirty (30) days thereafter its recommended disposition to the department. A hearing shall be held before the committee if requested, within thirty (30) days following the determination of the committee, by a person having an interest in the subject matter. Upon approval of a recommendation by the department, the APML shall be amended by listing the new part or material in Section 5 of this regulation.

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

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

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

(2)(a) Flushmate water closet tank.

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

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

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

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

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

(3) Tubular traps with gasket in trap seal.

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

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

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

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

(e) Little Giant Pump Company, Drainosaur Water Removal System, Model #WRS-6. This approval is limited to two (2) drainage fixture units since it has a one and one-half (1 1/2) inch drain.

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

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

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

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

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

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

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

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

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

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

(c) Series 1000 Automatic Faucets as Manufactured by Hydrotek USA, Inc.

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

(8) Floor drains, shower drains, urinal drains and clean-outs manufactured by Plastic Oddities, Inc.

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

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

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

1. In-Sink-Erator's Ultra System. For instant hot water to serve individual fixtures, Model #777W, W, WH, WA and WHA, W-152 and W-154.

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

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

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

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

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

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

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

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

10. Chronomite Laboratories, Inc. - instantaneous water heater and shall be equipped with an approved temperature and pressure relief valve. Chronomite Instant-Flow Tankless Water Heater without a temperature and pressure relief valve.

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

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

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

14. Vaillant Corporation gas fired point of use water heater.

15. Trinom Hot Man Tankless Water Heater as manufactured by Siemens.

(11) Compression joints. Fail-safe hot and cold water systems.

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

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

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

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

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

(17) Elkay Aqua-chill water dispensers.

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

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

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

(20) Interceptors.

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

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

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

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

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

(21) Plastic Oddities Srv (sewer relief vent) clean-out.

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

(23) Nonchemical water treatment to control lime scale and corrosion buildup superior water conditioners as manufactured by Kemtune, Inc.

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

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

(26) Exemplar Energy garden solar water heater.

(27) ProSet systems for pipe penetrations in fire rated structures. System A for copper and steel pipe. System C using solvent weld joints only. ProSet E-Z flex coupling is approved for similar or dissimilar materials.

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

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

(30) Mission Rubber Company "Band-Seal Specialty Coupling" is approved as a transition between any combination of the following materials: cast iron, copper, galvanized steel, schedule 40 PVC and ABS and SDR 35.

(31)(a) Laticrete 9235 Waterproof Membrane to be used as a safing material for floors and walls in showers, bathtubs and floor drain pans.

(b) Ultra-Set as manufactured by Bostik Construction Products to be used as a water proofing material.

(32) DFW Elastomeric PVC coupling manufactured by DFW Plastics, Inc. for use on building sewers only.

(33) Fernco Lowflex Shielded Couplings, approved for connecting extra heavy, no-hub and service weight cast iron pipe, DWV PVC and ABS pipe, SDR 35 sewer pipe, galvanized steel pipe and copper pipe or as a transition between any of these materials in soil waste and vent systems above or below grade.

CHARLES A. COTTON, Commissioner
THEODORE T. COLLEY, Secretary
APPROVED BY AGENCY: March 13, 1991
FILED WITH LRC: April 11, 1991 at 3 p.m.
PUBLIC HEARING: A public hearing on this

regulation shall be held on May 21, 1991 at 10 a.m. in the office of the Department of Housing, Buildings and Construction, 1047 U.S. 127 South, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by May 16, 1991, (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 in which case the person requesting the transcript shall have the responsibility of paying for same. 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 attend the public hearing or written comments on the proposed administrative regulation by the above date to: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127 Building, 1047 U.S. 127 South, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Judith G. Walden

(1) Type and number of entities affected: Manufacturers of new products not yet made part of a national standard allowed by the Kentucky Plumbing Code.

(a) Direct and indirect costs or savings to those affected: There are no costs or savings because the regulation only establishes acceptability of previously unapproved products. Provides ability of manufacturer to market his product in state.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition): Enhances competition for products in state.

(b) Reporting and paperwork requirements: Paperwork requirements and recordkeeping needs remain the same; no costs or savings involved.

(2) Effects on the promulgating administrative body: Formalizes, with proper regulatory oversight the procedures for acceptability of new products in the State Plumbing Code.

(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: Unchanged by this amendment.

(3) Assessment of anticipated effect on state and local revenues: No effect on revenues because the regulation merely identifies existing procedures in regulatory form.

(4) Assessment of alternative methods; reasons why alternatives were rejected: The previous method of filing new parts or materials did not statutorily meet KRS Chapter 13A requirements.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: This is the only known law or policy dealing with this product.

(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. Tiering was used in that each product presented for approval is considered separately for compliance with generally recognized safety and workability standard.

CABINET FOR HUMAN RESOURCES
Department for Human Resources
Division of Community Safety
(Proposed Amendment)

902 KAR 55:020. Schedule II substances.

RELATES TO: KRS Chapter 218A

STATUTORY AUTHORITY: KRS 194.050, 211.090, 218A.020, 218A.060, 218A.250

NECESSITY AND FUNCTION: KRS 218A.020 authorizes the Cabinet for Human Resources to add substances to or delete or reschedule substances enumerated in KRS Chapter 218A. After considering the criteria set forth in KRS 218A.020 and 218A.060 and applicable federal regulations, the Cabinet for Human Resources designates the substances set forth in this regulation as Schedule II controlled substances.

Section 1. Depressants. The Cabinet for Human Resources hereby designates as Schedule II controlled substances in addition to those specified by KRS 218A.070 and unless specifically excepted or listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

(1) Amobarbital;

(2) Glutethimide;

(3) Pentobarbital;

(4) Secobarbital. [Reschedule of Certain Barbituric Acid Derivatives to "Schedule II" Controlled Substances; Exceptions. The Cabinet for Human Resources hereby reschedules the following barbituric acid derivatives from Schedule III to Schedule II controlled substances, viz:]

[(1) Amobarbital;]

[(2) Secobarbital;]

[(3) Pentobarbital;]

[(4) Provided; however, that any material, compound, mixture, or preparation containing amobarbital, secobarbital and pentobarbital or any salt thereof and one (1) or more other active medicinal ingredient(s) which is not a controlled substance shall be in "Schedule III."]

(5) Provided; however [further], that any suppository dosage form containing amobarbital, secobarbital and pentobarbital or any salt thereof which has been approved by the United States Food and Drug Administration for marketing only as a suppository shall be in "Schedule III."

Section 2. Immediate Precursors. The Cabinet for Human Resources hereby designates as Schedule II controlled substances, in addition to those specified by KRS 218A.070 and unless specifically excepted or listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

(1) [1-Piperidinocyclohexanecarbonitrile and]

1-Phenylcyclohexylamine, immediate precursor to Phencyclidine;

(2) Phenylacetone[.] (some trade or other names include: phenyl-2-propanone, P2P, benzyl methyl ketone, and methyl benzyl ketone, immediate precursors to amphetamine and methamphetamine);

(3) 1-Piperidinocyclohexanecarbonitrile, immediate precursor to Phencyclidine.

Section 3. Hallucinogenic Substances. The Cabinet for Human Resources hereby designates as Schedule II controlled substances, in addition to those specified by KRS 218A.070 and unless specifically excepted or listed in another schedule, and material, compound, mixture, or preparation which contains any quantity of the following substances:

(1) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. Food and Drug Administration approved drug product. (Some other names for dronabinol: (6aR-trans)-6a, 7, 8, 10a- tetrahydro-6, 6, 9-trimethyl-3-pentyl-6H-dibenzo [b, d] pyran-1-ol or (-) delta-9-(trans)-tetrahydrocannabinol.)

(2) Nabilone. (Another name for nabilone: (plus or minus) - trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo[b,d]pyran-9-one).

Section 4. Opium and Derivatives. The Cabinet for Human Resources hereby designates as Schedule II controlled substances, in addition to those specified by KRS 218A.070, any of the following opium and opiates, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, dextrorphan, nalbuphine, nalmefene, naloxone, and naltrexone, and their respective salts, but including the following:

(1) Raw opium;
(2) Opium extracts;
(3) Opium fluid;
(4) Powdered opium;
(5) Granulated opium;
(6) Tincture of opium;
(7) Codeine;
(8) Ethylmorphine;
(9) Etorphine hydrochloride;
(10) Hydrocodone;
(11) Hydromorphone;
(12) Metopon;
(13) Morphine;
(14) Oxycodone;
(15) Oxymorphone;
(16) Thebaine;

Section 5. Opiates. The Cabinet for Human Resources hereby designates as Schedule II controlled substances, in addition to those specified by KRS 218A.070, any of the following opiates, including its isomers, esters, ethers, salts and salts of isomers, esters, and ethers whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation, dextrorphan and levopropoxyphene excepted:

(1) Alfentanil;
(2) Bulk dextropropoxyphene (nondosage forms);
(3) Carfentanil;
(4) [(3)] Sufentanil.

C. HERNANDEZ, M.D., Commissioner
HARRY J. COWHERD, M.D., Secretary

APPROVED BY AGENCY: March 29, 1991
FILED WITH LRC: April 5, 1991 at 11 a.m.
PUBLIC HEARING: A public hearing on this regulation has been scheduled for May 21, 1991 at 9 a.m. in the Department for Employment Services Conference Room, 2nd Floor, CHR Building, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by May 16, 1991, 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: Edward Crews

(1) Type and number of entities affected: This regulation potentially affects all citizens of the Commonwealth.

(a) Direct and indirect costs or savings to those affected: There is no cost or savings involved. The regulation updates the list of controlled substances in Schedule II.

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: There is no reporting or paperwork required.

(2) Effects on the promulgating administrative body: There is no significant effect on the administrative body. The regulation merely updates the list of controlled substances in Schedule II.

(a) Direct and indirect costs or savings: There is no additional cost or saving generated by this regulation.

1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: There is no additional reporting or paperwork required by this regulation.

(3) Assessment of anticipated effect on state and local revenues: No effect on state or local revenues is anticipated.

(4) Assessment of alternative methods; reasons why alternatives were rejected: The only alternative is an out-of-date list. This was rejected since the state list would not conform to the federal list.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No statute, regulation or policy will conflict, overlap or duplicate this regulation.

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments:

TIERING: Was tiering applied? No. Tiering was not applied because KRS Chapter 218A applies to all persons without regard to sex, race, age, profession, or other differentiation.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. The comparable federal law and regulations are 84 Stat. 1242; 21 USC 801

and 21 CFR 1308.12.

2. State compliance standards. The criteria for substances in Schedule II are set forth in KRS 218A.060.

3. Minimum or uniform standards contained in the federal mandate. The criteria for substances Schedule II are set forth in 21 USC 812.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The state regulation imposes no requirements or responsibilities different than federal law.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.

CABINET FOR HUMAN RESOURCES
Department for Health Services
Division of Community Safety
(Proposed Amendment)

902 KAR 55:025. Schedule III substances.

RELATES TO: KRS Chapter 218A

STATUTORY AUTHORITY: KRS 194.050, 211.090, 218A.020, 218A.080, 218A.250

NECESSITY AND FUNCTION: KRS 218A.080 provides that the Cabinet for Human Resources shall place a substance in Schedule III under the Kentucky Controlled Substances Act if: (1) the substance has a potential for abuse less than the substances listed in Schedules I and II; (2) the substance has currently accepted medical use in treatment in the United States; and (3) abuse of the substance may lead to moderate or low physical dependence or high psychological dependence. The Cabinet for Human Resources hereby finds that the substances in this regulation meet this criteria.

Section 1. Amphetamine and Methamphetamine Combination Products. The Cabinet for Human Resources hereby designates the following amphetamine and methamphetamine combination products as "Schedule III Controlled Substances" and any other drug of the quantitative composition shown below or which is the same except that it contains a lesser quantity of controlled substances, to wit:

(1) Mediatric; Tablet or capsule: Methamphetamine hydrochloride 1 mg.; conjugated estrogens-equine 0.25 mg.; methyl testosterone 2.5 mg; and

(2) Mediatric Liquid; Solution (15 cc.): Methamphetamine hydrochloride 1 mg.; conjugated estrogens-equine 0.25 mg.; methyl testosterone 2.5 mg.

Section 2. Stimulants. The Cabinet for Human Resources hereby designates as "Schedule III" controlled substances any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers (whether optical position or geometric), and salts of such isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Benzphetamine;
(2) Chlorphentermine;
(3) Chlortermine; and
(4) Phendimetrazine.

Section 3. Depressants. The Cabinet for Human Resources hereby designates as "Schedule III" controlled substances the following:

(1) Any material, compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or any salt thereof and one (1) or more other active medicinal ingredients which is not a controlled substance.

(2) Any suppository dosage form containing amobarbital, secobarbital, pentobarbital, or any salt thereof which has been approved by the United States Food and Drug Administration for marketing only as a suppository.

(3) Tiletamine and zolazepam or any salt thereof. Trade or other names for tiletamine: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone. Trade or other names for zolazepam: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-(3,4-e) (1,4)-dizepin-7(1H)-one,flupyrazpon.

Section 4. Pentazocine Drug Products. The Cabinet for Human Resources hereby designates, in addition to the parenteral or injectable form of Pentazocine which is designated as a "Schedule III" controlled substance by KRS 218A.090(3), all other dosage forms of Pentazocine as "Schedule III" controlled substances. Any material, compound, mixture, or preparation which contains any quantity of Pentazocine, including its salts, is hereby designated as a "Schedule III" controlled substance.

Section 5. Anabolic Steroids. The Cabinet for Human Resources hereby designates as "Schedule III Controlled Substances", in addition to those listed in KRS 218.090(5), any material, compound, mixture, or preparation which contains any quantity of the following substances, or any isomer, ester, salt, or derivative thereof:

(1) Boldenone;
(2) Chlorotestosterone;
(3) Dihydrotestosterone;
(4) Drostanolone;
(5) Formebulone;
(6) Methandranone;
(7) Methandriol;
(8) Mibolerone;
(9) Stanolone;
(10) Testolactone; and
(11) Trenbolone.

C. HERNANDEZ, M.D., Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: March 29, 1991
FILED WITH LRC: April 5, 1991 at 11 a.m.

PUBLIC HEARING: A public hearing on this regulation has been scheduled for May 21, 1991 at 9 a.m. in the Department for Employment Services Conference Room, 2nd Floor, CHR Building, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by May 16, 1991, 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: Edward Crews

(1) Type and number of entities affected: This regulation potentially affects all citizens of

the Commonwealth.
(a) Direct and indirect costs or savings to those affected: There is no cost or savings involved. The regulation updates the list of controlled substances in Schedule III.
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: There is no reporting or paperwork required.
(2) Effects on the promulgating administrative body: There is no significant effect on the administrative body. The regulation merely updates the list of controlled substances in Schedule III.
(a) Direct and indirect costs or savings: There is no additional cost or saving generated by this regulation.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: There is no additional reporting or paperwork required by this regulation.
(3) Assessment of anticipated effect on state and local revenues: No effect on state or local revenues is anticipated.
(4) Assessment of alternative methods; reasons why alternatives were rejected: The only alternative is an out-of-date list. This was rejected since the state list would not conform to the federal list.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No statute, regulation or policy will conflict, overlap or duplicate this regulation.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. Tiering was not applied because KRS Chapter 218A applies to all persons without regard to sex, race, age, profession, or other differentiation.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. The comparable federal law and regulations are 84 Stat. 1242; 21 USC 801 and 21 CFR 1308.12.
2. State compliance standards. The criteria for substances in Schedule III are set forth in KRS 218A.080.
3. Minimum or uniform standards contained in the federal mandate. The criteria for substances Schedule III are set forth in 21 USC 812.
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The state regulation imposes no requirements or responsibilities different than federal law.
5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.

CABINET FOR HUMAN RESOURCES
Department for Employment Services
Division of Unemployment Insurance
(Proposed Amendment)

903 KAR 5:290. Employer contribution rates.

RELATES TO: KRS 341.270
STATUTORY AUTHORITY: KRS 194.050, 341.270
NECESSITY AND FUNCTION: KRS 341.270 requires the Secretary for Human Resources to determine the rate schedule for employer's contributions. The rate schedule in effect for each calendar year is determined by the "trust fund balance" as of December 31, of the preceding year. This regulation applies the mathematical computation required by KRS 341.270 and sets forth the applicable rates to be in effect for the calendar year.

Section 1. Trust Fund Balance. The secretary finds the following to exist:
(1) The "trust fund balance" as of December 31, 1990 [1989], was $413,909,901.94 [393,375,478.01].
(2) There was no outstanding loan from the Federal Unemployment Trust Fund as of December 31, 1990 [1989].

Section 2. Rate Schedule. On the basis of the findings in Section 1 of this regulation, and in accordance with KRS 341.270(3), Schedule A of Table A shall be in effect for calendar year 1991 [1990], because the "trust fund balance" equals or exceeds $350,000,000, on December 31, 1990 [1989]. Rates listed in Schedule A of Table A are listed below.

Employer Reserve Ratio	Rate Schedule
8.0% and over	0.30%
7.0% but under 8.0%	0.40%
6.0% but under 7.0%	0.50%
5.0% but under 6.0%	0.70%
4.6% but under 5.0%	1.00%
4.2% but under 4.6%	1.30%
3.9% but under 4.2%	1.50%
3.6% but under 3.9%	1.80%
3.2% but under 3.6%	2.00%
2.7% but under 3.2%	2.10%
2.0% but under 2.7%	2.20%
1.3% but under 2.0%	2.30%
0.0% but under 1.3%	2.40%
-0.5% but under -0.0%	6.50%
-1.0% but under -0.5%	6.75%
-1.5% but under -1.0%	7.00%
-2.0% but under -1.5%	7.25%
-3.0% but under -2.0%	7.50%
-4.0% but under -3.0%	7.75%
-6.0% but under -4.0%	8.25%
-8.0% but under -6.0%	8.50%
Less than 8.0%	9.00%

DARVIN ALLEN, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: March 29, 1991
FILED WITH LRC: April 1, 1991 at 2 p.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on May 21, 1991 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 May 16, 1991, 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, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Darvin Allen
(1) Type and number of entities affected: 72,690 Kentucky employers.
(a) Direct and indirect costs or savings to those affected:
1. First year: No change - rate schedule remains the same.
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: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: Possible increase in UI Trust Fund receipts due only to natural wage increases and increased number of employers.
(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: 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. All taxpaying employers treated equally.

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. Either all or part of a local government could be affected. Entities such as county health departments, water districts, libraries, etc., could be affected based upon their independent exercise of unemployment reporting options.
3. State the aspect or service of local government to which this administrative regulation relates. This regulation affects the unemployment tax assessed based on the payroll of those local governments which have elected to make quarterly unemployment tax payments.
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: The great majority of local governments have elected to reimburse any unemployment benefits attributable to their employment. However, approximately 700 governmental entities have elected to pay quarterly unemployment taxes. By specifying the tax rate schedule in effect for 1991, this regulation determines in part the amount of tax which will be due from these taxpaying entities. The tax rate schedule set forth in this regulation remains the same as the previous year.

CABINET FOR HUMAN RESOURCES
Department for Medicaid Services
(Proposed Amendment)

907 KAR 1:017. Hospital indigent care assurance program (HICAP).

RELATES TO: KRS 205.520
STATUTORY AUTHORITY: KRS 194.050, 205.575, HB 21, 1991 Special Session GA
NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance under Title XIX of the Social Security Act, and the Hospital Indigent Care Assurance Program (HICAP) under KRS 205.575. This regulation sets forth provisions relating to implementation of HICAP.

Section 1. Definitions. (1) For purposes of this regulation the following words or phrases shall have the same definition as shown in KRS 205.575:
(a) Hospital indigent care assurance program (HICAP);
(b) Department;
(c) Medicaid Assessment Revolving Trust (MART) fund;
(d) Medicaid Assessment Revolving Trust (MAIT) fund;
(e) [(d)] Hospital; and
(f) [(e)] Medical assistance program.
(2) "Nonparticipant" means a hospital not complying with the conditions of participation for HICAP.

Section 2. Conditions of Participation. Any hospital participating in the HICAP program shall comply with the following requirements:
(1) Pay to the department the hospital's assessment;
(2) Comply with the requirement contained in KRS 205.575 for the posting of a sign showing the hospital will accept patients under given circumstances; [and]
(3) Comply with the requirement contained in KRS 205.575 for acceptance of benefits of state health insurance coverage; and
(4) Comply with the requirement for provision of inpatient hospital benefits to indigent individuals and families with income up to 100 percent of the federal poverty level as

specified in Section 1(15) of House Bill 21, 1991 Special Session, General Assembly (to be codified as KRS 205.575);

(5) Comply with the requirement for providing to Medicaid recipients additional days of coverage per hospital stay as specified in Section 1(14)(c) of House Bill 21, 1991 Special Session, General Assembly (to be codified as KRS 205.575);

(6) Comply with the requirement for accepting as payment in full benefits of student health insurance as specified in Section 1(14)(d) of House Bill 21, 1991 Special Session, General Assembly (to be codified as KRS 205.575); and

(7) Comply with the requirement for collecting and reporting to the department data on indigent patient days as specified in Section 1(14)(e) of House Bill 21, 1991 Special Session, General Assembly (to be codified as KRS 205.575).

Section 3. Departmental Actions Based on Noncompliance with Participation Requirements. (1) A hospital shall be considered a nonparticipant when it fails to meet one (1) or more of the participation requirements shown in Section 2 of this regulation. A hospital shall be notified in writing when the department determines the facility to be a nonparticipant. The department shall provide the hospital an opportunity to discuss with the department its determination prior to issuance of the written notification so the hospital may present any evidence it may wish the department to consider which relates to the hospital's compliance with conditions of participation.

(2) A hospital which is a nonparticipant shall not be paid HICAP benefits until all participation requirements are met.

Section 4. Assessments. The HICAP assessment payment amounts for the period beginning July 13, 1990 through December 31, 1990, shall be one (1) percent of each hospital's total inpatient and outpatient hospital costs for services to patients utilizing hospital cost reports available as of June 15, 1990. The assessment percentage for annual periods beginning January 1, 1991, shall be five (5) [one (1)] percent utilizing hospital cost reports used in setting the year's Medicaid hospital rates. From each year's assessments actually paid the cabinet, the department may [shall] reserve up to $1,000,000 as a contingency reserve and may reserve up to two (2) percent of the assessments for necessary administrative expenditures as provided for in House Bill 21, 1991 Special Session, General Assembly (to be codified in part in KRS 205.575 and as a new KRS section).

Section 5. HICAP Benefit Payments. (1) The HICAP benefit payment amounts for the period of July 13, 1990, through December 31, 1990, shall be computed in accordance with KRS 205.575 using hospital cost reports available as of June 15, 1990. For rate years beginning on or after January 1, 1991, the HICAP benefit payment amounts shall be the minimum amounts provided for in Section 1(6)(b) of House Bill 21, 1991 Special Session, General Assembly (to be codified as KRS 205.575) computed in accordance with Section 1(6)(b) of House Bill 21, 1991 Special Session, General Assembly (to be codified as KRS 205.575), plus $100,000 annually, [KRS 205.575] and the cost reports utilized shall be the cost reports used in setting hospital rates for the year.

(2) Disbursements shall be proportionate based on the ratio of the facility's Medicaid days compared to total Medicaid days (except for hold harmless amounts), taking into consideration funds available for disbursement. Disbursement adjustments based on appeal or audit may be paid from the contingency reserve or from the available fund amount (including amounts in the fund in a subsequent quarter if necessary).

(3) If a hospital appeals a departmental decision with regard to its assessment payment amount or its HICAP benefit amount to Franklin Circuit Court, it may nevertheless pay to the department the assessment payment amount computed by the department with the understanding that the payment shall not compromise its right of action in court and that its final assessment payment amount or HICAP benefit payment amount shall be contingent on expiration of the time of judicial appeals or on court determination.

Section 6. Allocation of Payments. Hospitals Shall be paid for the first one (1) percent of assessment the [any] HICAP benefit amounts based on Medicaid days, then hold harmless amounts as necessary sufficient to bring the hospitals' [total] payment [under the program] up to the amount of assessment [amount] paid; and for the second and third percents of assessment, the HICAP benefit amounts based on Medicaid days, then hold harmless amounts as necessary sufficient to bring the hospitals' payment up to the amount of assessment paid; and for the fourth and fifth percents of assessment, the HICAP benefit amounts based on Medicaid days, then hold harmless amounts as necessary sufficient to bring the hospitals' payment up to the amount of assessment paid; and then as necessary any additional HICAP benefits necessary to bring the total payment to each hospital up to an amount which is not less than that hospital's assessment plus $100,000 annually ($25,000 quarterly). The contingency reserve shall be used as necessary to ensure equitable continuing payments to hospitals meeting HICAP participant status and may be used as necessary for distribution to hospitals as hold harmless amounts.

Section 7. Assessment Schedules. (1) Assessment payments for the July 13, 1990, through September 30, 1990, period shall be due on or before September 30, 1990. Assessment payments for the October 1, 1990 - December 31, 1990 period shall be due on or before November 30, 1990. The assessment payment due date for each subsequent calendar quarter shall be on the last day of the second month of each quarter, except that the department may establish administratively different assessment schedules for the calendar quarters ending March 31, 1991 and June 30, 1991 to accommodate assessment and payment requirements mandated by House Bill 21, 1991 Special Session, General Assembly (to be codified as KRS 205.575).

(2) A hospital may request a delay in its assessment payment due date based on unforeseeable circumstances affecting the hospital's ability to pay in a timely manner. Unforeseeable circumstances may include, but are not limited to, substantial disruptions of management or operations from occurrences such as fire, flood, storm, bankruptcy or other

demonstrated financial hardship. Simple inability to pay, unless combined with a filing of bankruptcy or other demonstrated financial hardship by the hospital, shall not constitute justification for a delayed payment schedule. If a delay is granted, the delay shall not exceed sixty (60) days. An appeal to the Franklin Circuit Court (or a higher court as appropriate) with regard to the assessment payment amount or the HICAP benefit amount shall be justification for a delay in payment of the assessment until the court case is resolved.

Section 8. Transfer of Excess MART Funds to the MAIT Fund. The department shall determine within thirty (30) days after payment to hospitals of each quarter's HICAP payments the amount of hospital assessment funds which are in excess of the amount required to meet the commitments for payments to hospitals, maintenance of the contingency reserve, and for use as administrative funds, and shall make the necessary request for transfer of the excess assessment amounts (plus accrued interest) to the MAIT fund for use in accordance with House Bill 21, 1991 Special Session, General Assembly (to be codified as KRS 205.575 and a new KRS section).

Section 9. [8.] Waiver of Late Payment Penalties. The commissioner of the department shall waive the late payment penalty specified in KRS 205.575 ($20,000 per incident of late payment) only when good cause exists. Good cause shall be determined to exist only when an unforeseeable circumstance occurs affecting timely payment. Unforeseeable circumstances may include substantial disruptions of management or operations from occurrences such as fire, flood, storm or similar events. Good cause may also exist when the responsible official of the hospital reasonably anticipated that payment was or should have been made (e.g., payment was mailed timely but lost in the mail). Failure to pay due to insufficient funds shall not be good cause for a waiver of the penalty unless combined with a bankruptcy filing of the hospital. An appeal to the Franklin Circuit Court (or a higher court as appropriate) with regard to the assessment payment amount or the HICAP benefit payment amount shall be considered to meet the criteria for good cause.

Section 10. [9.] General. The department shall perform other functions related to implementation of HICAP in accordance with the specific provisions shown in KRS 205.575 and House Bill 21, 1991 Special Session, General Assembly (to be codified as KRS 205.575 and a new KRS section).

Section 11. [10.] Effective Date. The provisions of this regulation shall be effective with regard to HICAP assessments and payments made for quarters ending on and after March 31, 1991 [July 13, 1990].

ROY BUTLER, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: March 18, 1991
FILED WITH LRC: March 26, 1991 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on May 21, 1991 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 May 16, 1991, 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: Kim Moore, Acting General Counsel, Cabinet for Human Resources, 275 East Main Street - 4 West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roy Butler
(1) Type and number of entities affected: All acute care hospitals in the state.
(a) Direct and indirect costs or savings to those affected: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: $185.4 million (costs)*
2. Continuing costs or savings: $185.4 million (costs)*
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: No viable alternatives were identified.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: *State funds for HICAP come from the hospital assessment.
TIERING: Was tiering applied? No. Federal Medicaid regulations require that similarly situated providers be treated in a similar manner.

CABINET FOR HUMAN RESOURCES
Department for Medicaid Services
(Proposed Amendment)

907 KAR 1:020. Payment for drugs.

RELATES TO: KRS [205.550,] 205.560
STATUTORY AUTHORITY: KRS 194.050, 42 CFR 440.120, 447.31, 447.332, 447.333, 42 USC 1396a, b, c, d

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer a program of Medical Assistance [under Title XIX of the Social Security Act]. KRS [205.550 and] 205.560 requires that the secretary prescribe the methods for determining costs for vendor payments for medical services. This regulation sets forth the method for determining amounts payable by the department for drugs.

Section 1. Maximum Allowable Cost Reimbursement Limits. (1) Reimbursement to pharmacies participating in the Medical Assistance Program for those drugs contained on the Kentucky Medical Assistance Program Outpatient Drug List (as published by the Cabinet for Human Resources) or preauthorized for individual recipients based on medical necessity (and for which, effective May 1, 1991, appropriate rebate agreements have been signed by the manufacturer or labeler or which is provided based on a preauthorized exemption from the rebate requirement) and provided to eligible recipients shall be determined in accordance with the following policies [is limited to the lowest of]:

(a) Drug costs shall be determined in the pharmacy program using a computerized price listing service with pricing based on the actual package size utilized. The state maximum allowable cost (SMAC) amounts in effect on October 1, 1990 shall be frozen in place and effective for services provided through December 27, 1990. The SMAC shall not be used for services provided on or after December 27, 1990.

(b) Effective with regard to services provided through December 27, 1990, when an average wholesale price (AWP) and direct price are listed by the price listing service, reimbursement for the drug cost shall be the lesser of the SMAC, federal maximum allowable cost (FMAC), or AWP minus five (5) percent, plus a dispensing fee (and unit dose add-on, as appropriate) or the billed charge unless the physician has written "do not substitute" or "brand necessary" on the prescription. Effective with regard to services provided on or after December 28, 1990, when an average wholesale price (AWP) and a direct price is listed for drugs provided by those companies who had determined that at least fifty (50) percent of their products were sold directly to Kentucky pharmacies, and for which the Medicaid Program used direct pricing as of September 30, 1990, reimbursement for the drug cost shall be the lesser of the direct price, the FMAC, or AWP minus ten (10) percent, plus a dispensing fee (and unit dose add-on, as appropriate) or the usual and customary billed charge unless the physician has written "do not substitute" or "brand necessary" on the prescription. Effective with regard to services provided on or after April 1, 1991, when an average wholesale price is listed, reimbursement for the drug cost shall be the lesser of the FMAC or AWP minus ten (10) percent plus a dispensing fee (and unit dose add-on as appropriate) or the usual and customary billed charge unless a physician has written "do not substitute" or "brand necessary" on the prescription.

(c) Effective with regard to services provided through December 27, 1990, if an AWP is not listed, reimbursement shall be the lesser of the SMAC, FMAC, or direct price plus a dispensing fee (and unit dose add-on, as appropriate), or the usual and customary billed charge unless the physician has written "do not substitute" or "brand necessary" on the prescription. Effective with regard to services provided on or after December 28, 1990, if an AWP is not listed, reimbursement shall be the lesser of the FMAC or direct price plus a dispensing fee (and unit dose add-on, as appropriate), or the usual and customary billed charge unless the physician has written "do not substitute" or "brand necessary" on the prescription.

(d) If the physician has written "do not substitute" or "brand necessary" on the prescription, reimbursement shall be based on the lower of the pharmacy's usual and customary charge or the estimated acquisition cost (EAC) (AWP minus ten (10) percent or direct price as appropriate) for the respective drug plus a dispensing fee (and unit dose add-on, as appropriate).

[(a) The maximum allowable cost (MAC) of the drug, if any, whether federal or state or both, plus a dispensing fee; or]

[(b) The estimated acquisition cost (EAC) of the drug plus a dispensing fee; or]

[(c) The provider's usual and customary charge to the public for a like product and service.]

[(2) Reimbursement to skilled nursing and intermediate care facilities for drugs provided to eligible recipients is allowable in accordance with the following:]

[(a) The Kentucky Medical Assistance Program Outpatient Drug List (with additions and deletions thereto) shall be provided by the program to each participating facility, and for the drugs contained therein, the limits specified in subsection (1) of this section are applicable;]

[(b) For drugs not on the drug list, the maximum reimbursement shall be the same as set forth in subsection (1)(a) through (c) of this section. EAC's shall be determined in the same manner as for drugs included on the outpatient drug list. SNF/ICF facilities shall not impose an additional charge on medicaid eligible recipients for drugs because of the limitations set forth in Section 1(2) of this regulation;]

[(c) A packaging cost allowance of not more than six (6) cents per dose may be added to the drug cost (if not already included) for unit dose packaged drugs. The packaging cost (up to six (6) cents, plus the drug cost is added to the dispensing fee to determine the total reimbursement amount for a unit dose packaged prescription;]

(e) For nursing facility residents meeting Medicaid patient status criteria, [(d)] there shall be (effective December 28, 1990) no more than one (1) [two (2)] dispensing fee[s] allowed per drug within a calendar month for maintenance drugs (as determined by the Medicaid agency), and no more than two (2) dispensing fees allowed per drug within a calendar month for other drugs, [thirty (30) day period,] except for Schedules II, III, and IV controlled substances and for nonsolid dosage forms, including topical medication preparations, for which no more than four (4) dispensing fees per drug shall [will] be allowed [paid] within a calendar month. For nursing facility residents not meeting Medicaid patient status criteria and nonresidents of nursing facilities, there shall be no more than one (1) dispensing fee allowed per drug per calendar month for drugs classified by the Medicaid Program as maintenance drugs and no

more than four (4) dispensing fees shall be allowed per drug within a calendar month for legend intravenous drugs. [thirty (30) day period.] Though dispensing fees are limited, this shall not be construed as placing a limit on the quantity of reimbursable drugs for which the program will pay for any patient, since the reasonable cost of the drug (as defined herein) is reimbursable as a covered service in whatever quantity is considered medically necessary for the patient. Nonsolid dosage forms include all covered drug items other than oral tablets or capsule forms. [Drug items or other related supplies purchased for routine use and which may be purchased without a prescription, including food supplements, are not reimbursable in SNFs or ICFs under the drug program, though the cost of such drug, supply item or food supplement, is an allowable cost for the facility with the cost computed in accordance with the state regulation covering medicaid reimbursement for the facility;]

(f) [(e)] Whenever possible, unused drugs paid for by the department shall be returned to the pharmacy with the credit for the cost of the drug and the unit dose packaging cost (if applicable) accruing to the cabinet. [as an offset against allowable ancillary cost; and]

[(f) Interim payments made to participating facilities for allowable drug costs shall be settled at actual allowable costs computed in accordance with the upper limits shown herein at the end of the facilities' fiscal year.]

(2) [(3)] Reimbursement to hospitals for drugs provided to eligible recipients is on the basis of reasonable cost pursuant to 907 KAR 1:013. While reimbursement for drugs provided to patients in brain injury units in nursing facilities and units providing ventilator dependent care in nursing facilities is within the all-inclusive rate for the brain injury unit or ventilator care unit, the upper limits in this regulation shall be applicable with regard to payments for drugs provided in those settings.

[Section 2. Physician Maximum Allowable Cost (MAC) Override. The MAC price limitation in Section 1 of this regulation shall not apply in any case where a physician certifies in his own handwriting that in his medical judgment, a specific covered brand is medically necessary for a particular patient. In such instances, reimbursement shall be based on the lower of the EAC plus a professional dispensing fee or the provider's usual and customary charge to the public for the drug.]

Section 2. [3.] Dispensing Fees. (1) [Effective July 1, 1984,] The dispensing fee shall be [no more than] three (3) dollars and twenty-five (25) cents per prescription for drugs reimbursed through the outpatient drug program to all eligible recipients except those in nursing facilities. [, as shown in Section 1(1) of this regulation, where the covered drugs are limited to those contained on the Kentucky Medical Assistance Program Outpatient Drug List. The allowable dispensing fee shall be no more than three (3) dollars and twenty-five (25) cents (except for the additional amount for unit dose packaging as shown in Section 1(2)(c) of this regulation) for drugs reimbursed as part of the covered services of skilled nursing and intermediate care facilities, as shown in Section 1(2) of this regulation.]

(2) Effective with regard to services provided through December 27, 1990, for eligible recipients in nursing facilities, an addition to the usual dispensing fee of three (3) dollars and twenty-five (25) cents shall be made for drugs dispensed through the pharmacy outpatient drug program in the amount of four (4) cents per unit dose for unit dose drugs packaged in unit dose form by the manufacturer and six (6) cents per unit dose for unit dose drugs packaged in unit dose form by the pharmacist. Effective with regard to services provided on or after December 28, 1990, for eligible recipients in nursing facilities, an addition to the usual dispensing fee of three (3) dollars and twenty-five (25) cents shall be made for drugs dispensed through the pharmacy outpatient drug program in the amount of two (2) cents per unit dose for unit dose drugs packaged in unit dose form by the manufacturer and four (4) cents per unit dose for unit dose drugs packaged in unit dose form by the pharmacist; effective May 1, 1991 the unit dose dispensing fee addition shall be paid, as appropriate, even though the usual dispensing fee of three (3) dollars and twenty-five (25) cents is not paid due to monthly limits on dispensing fees.

Section 3. [4.] Reimbursement to Dispensing Physicians. Participating dispensing physicians who practice in counties where no pharmacies are located are reimbursed for the cost of the drug only, with the cost computed as the maximum allowable cost or estimated acquisition cost as shown in Section 1(1) of this regulation, or the physician's usual and customary charge to the general public for the drug if less, or in accordance with 907 KAR 1:010 for drugs purchased on the open mrket for specified immunizations shown in 907 KAR 1:009.

Section 4. Effective Date. The amendments to this regulation, except as otherwise provided, shall be effective with regard to services provided on and after October 1, 1990.

ROY BUTLER, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: March 28, 1991
FILED WITH LRC: April 3, 1991 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on May 21, 1991 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 May 16, 1991, 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: Roy Butler

(1) Type and number of entities affected: All pharmacies participating in the Medicaid program.

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: $6.4 million (savings)

2. Continuing costs or savings: $6.4 million (savings)

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

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

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

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments:

TIERING: Was tiering applied? No. Federal Medicaid regulations require that similarly situated providers be treated in a similar manner.

PROPOSED REGULATIONS RECEIVED THROUGH NOON, APRIL 15, 1991

DEPARTMENT FOR MILITARY AFFAIRS
Division of Disaster and Emergency Services

106 KAR 1:080. Kentucky emergency response commission fee system requirements.

RELATES TO: KRS 39.800 to 39.990, 42 USC 11001 to 11050
STATUTORY AUTHORITY: KRS 39.817, 39.845, 39.850, 39.890, 42 USC 11002(c), 11003(c)(d)
NECESSITY AND FUNCTION: This regulation sets forth the requirements to be followed by facilities subject to paying a fee.

Section 1. Definitions. (1) "Category One Facility" means any facility owned or operated by local, state or federal government which is exempted from paying any fee in accordance with KRS 39.817. This exemption applies solely to fees and does not exempt any Category One Facility from reporting requirements pursuant to KRS 39.800 to 39.905.
(2) "Category Two Facility" means any facility that has not less than 10,000 pounds and not more than 499,999 pounds of each of ten (10) or fewer hazardous substances. The combined total of all hazardous substances shall not exceed 499,999 pounds.
(3) "Category Three Facility" means any facility that has 10,000 pounds or more of each of eleven (11) or more hazardous substances. The combined total of all hazardous substances shall not exceed 499,999 pounds.
(4) "Category Four Facility" means any facility that has a total inventory of over 499,999 pounds of hazardous substances.
(5) "Category Five Facility" means any facility that has an extremely hazardous substance as set out in Section 6 of this regulation in excess of the threshold planning quantity.
(6) "DES/SARA-312" means the state annual chemical inventory reporting form due March 1 each year, covering the preceding calendar year.
(7) "DES/SARA-312-C" means the confidential state annual chemical inventory reporting form due March 1 each year, covering the preceding calendar year which may be used if a facility elects to withhold location information on a specific chemical from disclosure to the public pursuant to 42 USC 11044(a).
(8) "Hazardous chemical" means any substance for which a facility is required to prepare or have available a material safety data sheet under the Occupational Safety and Health Act of 1970 and federal regulations promulgated under that Act.
(9) "Hazardous substance" means any substance defined in KRS 39.805(5) and for annual inventory reporting purposes shall include hazardous chemicals.
(10) "KyERC" means the Kentucky Emergency Response Commission.

Section 2. Facility Requirements. (1) In accordance with KRS 39.845 and 39.850, 42 USC 11002(c) and 11003(c)(d), no later than March 1 a Category One Facility and Five Facility shall submit a completed Tab Q-7 as set out in Section 6 of this regulation for all extremely hazardous substances set out in Section 6 of this regulation in excess of the threshold planning quantity to the local emergency planning committee.
(2) After initial submission of the Tab Q-7 in accordance with subsection (1) of this section, each March 1 a Category One and Five Facility shall review the Tab Q-7 and send certification to the local emergency planning committee stating that there were no changes and therefore the plan is correct as is; or the plan has been revised and the revisions are included with the certification.
(3) A Category One Facility which is exempted from paying any fee shall file the annual chemical inventory reporting requirement due on DES/SARA-312.
(4) A Category Five Facility which is not subject to the annual chemical inventory reporting requirement due on DES/SARA-312 shall file the fee only in accordance with Section 4 of this regulation.

Section 3. Fees shall be payable in accordance with the schedule listed below except the same owner or owners of two (2) or more facilities in a single county subject to paying a fee shall pay a fee not to exceed $250 for all those facilities in that county.
(1) Category One Facility fee is $0.
(2) Category Two Facility fee is $40.
(3) Category Three Facility fee is $250.
(4) Category Four Facility fee is $250.
(5) Category Five Facility fee is $250.

Section 4. Filing Requirements for Fees and Forms DES/SARA-312 and DES/SARA-312-C. All fees and forms DES/SARA-312 and, if applicable DES/SARA-312-C, shall be filed simultaneously, no later than March 1 each year. Checks shall be made payable to "Kentucky State Treasurer" and shall be marked "For KyERC Fee Account". Fees and forms shall be mailed to: Chairman, Kentucky Emergency Response Commission, EOC Building-Boone National Guard Center, Frankfort, Kentucky 40601-6168.

Section 5. Penalties. Failure to comply with provisions of this regulation shall result in penalties as provided in KRS 39.990.

Section 6. The forms referred to in Sections 1(2), (3), 2(1) and 4 are set out in this section. The list of extremely hazardous substances referred to in Sections 1 and 2(1) are set out in this section. (See forms following Regulatory Impact Analysis)

This is to certify that the Kentucky Emergency Response Commission has recommended that this administrative regulation be adopted.

JAMES H. MOLLOY, Chairman
Kentucky Emergency Response Commission

MICHAEL W. DAVIDSON, Brigadier General
APPROVED BY AGENCY: April 10, 1991
FILED WITH LRC: April 11, 1991 at 1 p.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on May 22, 1991, 9 a.m. at Boone National Guard Center, EOC Building Conference Room. Individuals interested in being heard at this hearing shall notify this agency in writing by May 17, 1991,

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 the contact person: James H. Molloy, Chairman, Boone National Guard Center, Frankfort, KY 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roger Green

(1) Type and number of entities affected: This regulation applies to the owners/operators of all facilities required to report under auspices of the SARA, Title III Act. These facilities are those using, storing, or manufacturing hazardous chemicals in excess of certain amounts.

(a) Direct and indirect costs or savings to those affected: The direct cost for each facility that is required to report is either $40 or $250 annually. A facility reporting more than 10,000 but less than 499,999 pounds of each of 10 or fewer hazardous substances pays the lesser fee. A facility will pay the higher fee when it reports: (a) 10,000 pounds or more of each of 11 or more hazardous substances whose combined total does not exceed 499,999 pounds; (b) a total inventory of over 499,999 pounds of hazardous substances; or (c) 1 substances (EHS)" in excess of the threshold planning quantity. (A facility owned or operated by local, state, or federal government is exempted from paying any fee).

1. First year: The initial cost will be either $40 or $250 as explained in (1)(a) above.

2. Continuing costs or savings: The fee is an annual one to be remitted by March 1st of each year until or unless the facility no longer meets the reporting criteria.

3. Additional factors increasing or decreasing costs (note any effects upon competition): A facility which increases the number or quantity of substances used, or employs one of the EHS, may find that the $250 cost applies instead of $40; thus the cost could increase. Conversely, if a facility used fewer chemicals or smaller quantities the fee could decrease from $250 or $40 to zero. There is no known effect upon competition among reporting facilities.

(b) Reporting and paperwork requirements: Federal and state law already require the submission of both a chemical inventory form and a "plan" of response in the event of a hazardous substance incident. The chemical inventory forms attached (DES/SARA-312 and DES/SARA-312-c) have been slightly modified to assist the commission and local emergency planning committees administer the program. However, the forms are essentially federal ones and would be required in any event. The Tab Q-7 "plan" attached is to be completed by the facility and the local emergency planning committee jointly. The "tab" will become part of the emergency operations plan in each county. Only those facilities utilizing one or more of the "extremely hazardous substances" will be required to submit Tab Q-7. A plan was required by federal law; this Tab Q-7 and its incorporation into the countywide emergency operations plan is this commission's chosen method to meet this federal requirement.

(2) Effects on the promulgating administrative body: The ultimate effect on the body will be to provide a dedicated staff to administer this program funded through the fees submitted. The department has absorbed significant costs to administer this SARA Title III program for the State Commission over the last three years. These regulations fulfill the legislative mandate to establish a fee system; a portion of the fees collected are intended to fund dedicated state positions to administer the program. The program then becomes self-sufficient and does not impinge upon the departmental budget proper.

(a) Direct and indirect costs or savings: Dedicated support staff will be administered through the department but funding for the staff will originate from the fees collected. Savings will also be realized as the departmental staff currently involved in the program are replaced by others supported by the fee system.

1. First year: The cost savings will be phased in over a certain time period. Some staff will probably remain in transition working on commission activities until enough funds are collected to enable self-sufficiency. Some dedicated staff may also be employed which will be a direct cost.

2. Continuing costs or savings: The cost to the department incurred by nondedicated staff participation should be eliminated as the program supports itself through fee submissions. The direct cost incurred by dedicated Title III staff will increase as funding is provided the agency via the fees.

3. Additional factors increasing or decreasing costs: If the amount of the fees collected increase, additional staff may be hired to conduct commission requirements.

(b) Reporting and paperwork requirements: Initially nondedicated departmental staff will be involved in tracking and accounting for the required forms submitted. This burden will diminish as the program is established. Dedicated staff will administer these requirements as employed.

(3) Assessment of anticipated effect on state and local revenues: State revenues will increase as the required fees are submitted. The revenues will be used to administer the commission's program at state and local levels.

(4) Assessment of alternative methods; reasons why alternatives were rejected: This regulation implements the legislative mandate found in KRS 39.817; therefore, no alternatives were contemplated.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no statutes, regulations, or policies which are duplicative or in conflict.

(a) Necessity of proposed regulation if in conflict: Not applicable.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.

(6) Any additional information or comments: None

TIERING: Was tiering applied? Yes. Within the

statute (KRS 39.817) a "tiered" approach was adopted to help ensure the fee imposed was based on usage - those using greater numbers or amounts of hazardous substances pay more than those using fewer numbers or amounts. This regulation proposes categories based on the legislation enacted. Five categories are established as follows:

(a) Category One - A facility owned or operated by local, state, or federal government which is exempted from paying any fee per KRS 39.817(2)(d). These facilities must still report.

(b) Category Two - Any facility that has not less than 10,000 pounds nor more than 499,999 pounds of each of 10 or fewer hazardous substances with a combined total not in excess of 499,999 pounds. The required fee is $40.

(c) Category Three - Any facility that has 10,000 pounds or more of each of 11 or more hazardous substances with a combined total not exceeding 499,999 pounds. The required fee is $250.

(d) Category Four - A facility with a total inventory of over 499,999 pounds of hazardous substances. The required fee is $250.

(e) Category Five - A facility one or more of the specifically identified "extremely hazardous substances" in excess of certain quantities. The required fee is $250.

The List of Extremely Hazardous Substances and their Threshold Planning Quantities
(Alphabetical Order)

CAS No.	Chemical Name	Threshold planning quantity (pounds)	Notes
75865	ACETONE CYANOHYDRIN	1000	
1752303	ACETONE THIOSEMICARBAZIDE	1000/10000	e
107028	ACROLEIN	500	
79061	ACRYLAMIDE	1000/10000	d,l
107131	ACRYLONITRILE	10000	d,l
814686	ACRYLYL CHLORIDE	100	e,h
111693	ADIPONITRILE	1000	e,l
116063	ALDICARB	100/10000	c
309002	ALDRIN	500/10000	d
107186	ALLYL ALCOHOL	1000	
107119	ALLYLAMINE	500	e
20859738	ALUMINUM PHOSPHIDE	500	b
54626	AMINOPTERIN	500/10000	e
78535	AMITON	500	e
3734972	AMITON OXALATE	100/1000	e
7664417	AMMONIA	500	l
300629	AMPHETAMINE	1000	e
62533	ANILINE	1000	d.l
88051	ANILINE,2,4,6-TRIMETHYL-	500	e
7783702	ANTIMONY PENTAFLUORIDE	500	e
1397940	ANTIMYCINA	1000/10000	c,e
86884	ANTU	500/10000	
1303282	ARSENIC PENTOXIDE	100/10000	d
1327533	ARSENOUS OXIDE	100/10000	d,h
7784341	ARSENOUS TRICHLORIDE	500	d
7784421	ARSINE	100	e
2642719	AZINPHOS-ETHYL	100/10000	e
86500	AZINPHOSMETHYL	10/10000	
98873	BENZAL CHLORIDE	500	d
98168	BENZENAMINE,3(TRIFLUOROMETHYL)-	500	e
100141	BENZENE,I(CHLOROMETHYL)-4-NITRO-	500/10000	e
98055	BENZENEARSONIC ACID	10/10000	e
3615212	BENZIMIDAZOLE,4,5-DICHOLORO-2-(TRIFLUOROMETHYL)-	500/10000	e,g
98077	BENZOTRICHLORIDE	100	d
100447	BENZYL CHLORIDE	500	d
140294	BENZYL CYANIDE	500	e,h
15271417	BICYCLO(2.2.1)HEPTANE-2-CARBONITRILE,5-CHOLORO-6((((METHYLAMINO)CARBONYL)OXY)IMMINO-,(1 S-(2-ALPHA,2-BETA,4-ALPHA,5-ALPHA,6E))-	500/10000	e
534076	BIS(CHLOROMETHYL)KETONE	10/10000	e
4044659	BITOSCANATE	500/10000	e
10294345	BORON TRICHLORIDE	500	e
7637072	BORON TRIFLUORIDE	500	e
353424	BORON TRIFLUORIDE COMPOUND WITH METHYL ETHER(1:1)	1000	e
28772567	BROMADIOLONE	100/10000	e
7726956	BROMINE	500	e,l
1306190	CADMIUM OXIDE	100/10000	e
2223930	CADMIUM STEARATE	1000/10000	c,e

7778441	CALCIUM ARSENATE	500/10000	d
8001352	CAMPHECHLOR	500/10000	d
56257	CANTHARIDIN	100/10000	e
51832	CARBACHOL CHLORIDE	500/10000	e
26419738	CARBAMIC ACID, METHYL-,O-(((2,4-DIMETHYL-1, 3-DITHIOLAN-2-yl)METHYLENE)AMINO)-	100/10000	e
1563662	CARBOFURAN	10/10000	
75150	CARBON DISULFIDE	10000	
786196	CARBOPHENOTHION	500	e
57749	CHLORDANE	1000	d
470906	CHLORFENVINFOS	500	e
7782505	CHLORINE	100	
24934916	CHLORMEPHOS	500	e
999815	CHLORMEQUAT CHLORIDE	100/10000	e,h
79118	CHLOROACETICACID	100/10000	e
107073	CHLOROETHANOL	500	e
627112	CHLOROETHYLCHLOROFORMATE	1000	e
67663	CHLORFORM	10000	d,l
542881	CHLOROMETHYL ETHER	100	d,h
107302	CHLOROMETHYL METHYL ETHER	100	c,d
3691358	CHLOROPHACINONE	100/10000	e
1982474	CHLOROXURON	500/10000	e
21923239	CHLORTHIOPHOS	500	e,h
10025737	CHROMIC CHLORIDE	1/10000	e
10210681	COBALT CARBONYL	10/10000	e,h
62207765	COBALT,((2,2'-(1,2-ETHANEDIYL-BIS(NITRILO-METHYLIDYNE))[q EiIS(6-FLUOROPHENOLATO)) (2-)N,NI,O,O]	100/10000	e
64868	COLCHICINE	10/10000	e,h
56724	COUMAPHOS	100/10000	
5836293	COUMATETRALYL	500/10000	e
95487	CRESOL,O	1000/10000	d
535897	CRIMIDINE	100/10000	e
4170303	CROTONALDEHYDE	1000	
123739	CROTONALDEHYDE(E)-	1000	
506683	CYANOGEN BROMIDE	500/10000	
506785	CYANOGEN IODIDE	1000/10000	e
2636262	CYANOPHOS	1000	e
675149	CYANURIC FLUORIDE	100	e
66819	CYCLOHEXIMIDE	100/10000	e
108918	CYCLOHEXYLAMINE	10000	e,l
17702419	DECABORANE(14)	500/10000	e
8065483	DEMETON	500	e
919868	DEMETON-S-METHYL	500	e
10311849	DIALIFOR	100/10000	e
19287457	DIBORANE	100	e
111444	DICHLOROETHYL ETHER	10000	d
149746	DICHLOROMETHYLPHENYLSILANE	1000	e
62737	DICHLORVOS	1000	
141662	DICROTOPHOS	100	e
1464535	DIEPOXYBUTANE	500	d
814493	DIETHYL CHLOROPHOSPHATE	500	e,h
164254	DIETHYLCARBAMAZINE CITRATE	100/10000	e
71636	DIGITOXIN	100/10000	c,e
2238075	DIGLYCIDYL ETHER	1000	e
20830775	DIGOXIN	10/10000	e,h
115264	DIMEFOX	500	e
60515	DIMETHOATE	500/10000	
2524030	DIMETHYL PHOSPHOROCHLORIDOTHIOATE	500	e
77781	DIMETHYL SULFATE	500	d
75785	DIMETHYLDICHLOROSILANE	500	e,h
57147	DIMETHYLHYDRAZINE	1000	d
99989	DIMETHYL-P-PHENYLEDIAMINE	10/10000	e
644644	DIMETILAN	500/10000	e
534521	DINITROCRESOL	10/10000	
88857	DINOSEB	100/10000	
1420071	DINOTERB	500/10000	e
78342	DIOXATHION	500	e
82666	DIPHACINONE	10/10000	e
152169	DIPHOSPHORAMIDE, OCTAMETHYL-	100	
298044	DISULFOTON	500	
514738	DITHIAZANINE IODIDE	500/10000	e
541537	DITHIOBIURET	100/10000	
316427	EMETINE, DIHYDROCHLORIDE	1/10000	e,h
115297	ENDOSULFAN	10/10000	

2778043	ENDOTHION	500/10000	e
72208	ENDRIN	500/10000	
106898	EPICHLOROHYDRIN	1000	d,l
2104645	EPN	100/10000	e
50146	ERGOCALCIFEROL	1000/10000	c,e
379793	ERGOTAMINE TARTRATE	500/10000	e
1622328	ETHANESULFONYL CHLORIDE,2-CHLORO-	500	e
10140871	ETHANOL,1,2-DICHLORO-,ACETATE	1000	e
563122	ETHION	1000	
13194484	ETHOPROPHOS	1000	e
538078	ETHYLBIS(2-CHLOROETHYL)AMINE	500	e,h
371620	ETHYLENE FLUOROHYDRIN	10	c,e,h
75218	ETHYLENE OXIDE	1000	d,l
107153	ETHYLENEDIAMINE	10000	
151564	ETHYLENEIMINE	500	d
542905	ETHYLTHIOCYANATE	10000	e
22224926	FENAMIPHOS	10/10000	e
122145	FENITROTHION	500	e
115902	FENSULFOTHION	500	e,h
4301502	FLUENETIL	100/10000	e
7782414	FLUORINE	500	k
640197	FLUOROACETAMIDE	100/10000	i
144490	FLUOROACETIC ACID	10/10000	e
359068	FLUOROACETYL CHLORIDE	10	c,e
51218	FLOUROURACIL	500/10000	e
944229	FONOFOS	500	e
50000	FORMALDEHYDE	500	d,l
107164	FORMALDEHYDE CYANOHYDRIN	1000	e,h
23422539	FORMETANATE HYDROCHLORIDE	500/10000	e,h
2540821	FORMOTHION	100	e
17702577	FORMPARANATE	100/10000	e
21548323	FOSTHIETAN	500	e
3878191	FUBERIDAZOLE	100/10000	e
110009	FURAN	500	
13450903	GALLIUM TRICHLORIDE	500/10000	e
77474	HEXACHLOROCYCLOPENTADIENE	100	d,h
4835114	HEXAMETHYLENEDIAMINE,NIN-DIBUTYL-	500	e
302012	HYDRAZINE	1000	d
74908	HYDROCYANIC ACID	100	
7647010	HYDROGEN CHLORIDE (GAS ONLY)	500	e,l
7664393	HYDROGEN FLUORIDE	100	
7722841	HYDROGEN PEROXIDE (CONC. GREATER THAN 52%)		
7783075	HYDROGEN SELENIDE	10	e
7783064	HYDROGEN SULFIDE	500	
123319	HYDROQUINONE	500/10000	
13463406	IRON,PENTACARBONYL-	100	e
297789	ISOBENZAN	100/10000	e
78820	ISOBUTYRONITRILE	10000	e,h
102363	ISOCYANIC ACID,3,4-DICHLOROPHENYL ESTER	500/10000	e
465736	ISODRIN	100/10000	
55914	ISOFLUORPHATE	100	c
4098719	ISOPHORONE DIISOCYANATE	100	b,e
108236	ISOPROPYL CHLOROFORMATE	1000	e
119380	ISOPROPYLMETHYLPYRAZOLYL DIMETHYL-CARBAMATE	500	e
78977	LACTONITRILE	1000	e
21609905	LEPTOPHOS	500/10000	e
541253	LEWISITE	10	c,e,h
58899	LINDANE	1000/10000	d
7580678	LITHIUM HYDRIDE	100	b,e
109773	MALONONITRILE	500/10000	
12108133	MANGANESE, TRICARBONYL METHYLCYCLO-PENTADIENYL	100	e
51752	MECHLORETHAMINE	10	c,e
950107	MEPHOSFOLAN	500	e
1600277	MERCURIC ACETATE	500/10000	e
7487947	MERCURIC CHLORIDE	500/10000	e
21908532	MERCURIC OXIDE	500/10000	e
10476956	METHACROLEIN DIACERATE	1000	e
760930	METHACRYLIC ANHYDRIDE	500	e
126987	METHACRYLONITRILE	500	h
920467	METHACRYLOYL CHLORIDE	100	e
30674807	METHACRYLOYLOXYETHYLISOCYANATE	100	e,h
10265926	METHAMIDOPHOS	100/10000	e
558258	METHANESULFONYL FLUORIDE	1000	e

950370	METHIDATHION	500/10000	e
2032657	METHIOCARB	500/10000	
16752775	METHOMYL	500/10000	h
151382	METHOXYETHYLMERCURIC ACETATE	500/10000	e
80637	METHYL 2-CHLOROACRYLATE	500	e
74839	METHYL BROMIDE	1000	l
79221	METHYL CHLOROFORMATE	500	d,h
60344	METHYL HYDRAZINE	500	
624839	METHYL ISOCYANATE	500	f
556616	METHYL ISOTHIOCYANATE	500	b,e
74931	METHYL MERCAPTAN	500	
3735237	METHYL PHENKAPTON	500	e
676971	METHYL PHOSPHONIC DICHLORIDE	100	b,e
556649	METHYL THIOCYANATE	10000	e
78944	METHYL VINYL KETON	10	e
502396	METHYLMERCURIC DICYANAMIDE	500/10000	e
75796	METHYLTRICHLOROSILANE	500	e,h
1129415	METOLCARB	100/10000	e
7786347	MEVINPHOS	500	
315184	MEXACARBATE	500/10000	
50077	MITOMYCIN C	500/10000	d
69232224	MONOCROTOPHOS	10/10000	e
2763964	MUSCIMOL	500/10000	a,h
505602	MUSTARD GAS	500	e,h
13463393	NICKEL CARBONYL	1	d
54115	NICOTINE	100	c
65305	NICOTINE SULFATE	100/10000	e
7697372	NITRIC ACID	1000	
10102439	NITRIC OXIDE	100	c
98953	NITROBENZENE	1000	
1122607	NITROCYCLOHEXANE	500	e
10102440	NITROGEN DIOXIDE	100	
62759	NITROSDIMETHYLAMINE	1000	d,h
991424	NORBORMIDE	100/10000	e
PMN82147	ORGANORHODIUM COMPLEX (PMN-82-147)	10/10000	e
630604	OUABAIN	100/10000	c,e
23135220	OXAMYL	100/10000	e
78717	OXETANE, 3,3-BIS(CHLOROMETHYL)	500	e
2497976	OXYDISULFOTON	500	e,h
10028156	OZONE	100	e
1910425	PARAQUAT	10/10000	e
2074502	PARAQUAT METHOSULFATE	10/10000	e
56382	PARATHION	100	c,d
298000	PARATHION-METHYL	100/10000	c
12002038	PARIS GREEN	500/10000	d
19624227	PENTABORANE	500	e
2570265	PENTADECYLAMINE	100/10000	e
79210	PERACETIC ACID	500	e
594423	PERCHLOROMETHYLMERCAPTAN	500	
108952	PHENOL	500/10000	
4418660	PHENOL 2,2'-THIOBIS(4-CHLORO-6-METHYL-	100/10000	e
64006	PHENOL,3-(I-METHYLETHYL)-,METHYLCARBAMATE	500/10000	e
58366	PHENOXARSINE, 10,10I-OXIDI	500/10000	e
696286	PHENYL DICHLOROARAINE	500	d,h
59881	PHENYLHYDRAZINE HYDROCHLORIDE	1000/10000	e
62384	PHENYLMERCURY ACETATE	500/10000	
2097190	PHENYLSILATRANE	100/10000	e,h
103855	PHENYLTHIOUREA	100/10000	
298022	PHORATE	10	
4104147	PHOSACETIM	100/10000	e
947024	PHOSFOLAN	100/10000	e
75445	PHOSGENE	10	l
732116	PHOSMET	10/10000	e
13171216	PHOSPHAMIDON	100	e
7803512	PHOSPHINE	500	
2703131	PHOSPHONOTHIOIC ACID, METHYL-,O-ETHYL O-(4-(METHYLTHIO) ESTER	500	e
50782699	PHOSPHONOTHIOIC ACID, METHYL-,S-(2-(BIS (I-METHYLETHYL)AMINO)ETHYL O-ETHYL ESTER	100	e
2665307	PHOSPHONOTHIOIC ACID, METHYL-,O-(4-NITRO-PHENYL)O-PHENYL ESTER	500	e
3254635	PHOSPHORIC ACID, DIMETHYL4-(METHYLTHIO) PHENYL ESTER	500	e
2587908	PHOSPHOROTHIOIC ACID, O,O-DIMETHYL-S-(2-METHYLTHIO) ETHYL ESTER	500	c,e,g

7723140	PHOSPHORUS	100	b,h
10025873	PHOSPHORUS OXYCHLORIDE	500	d
10026138	PHOSPHORUS PENTACHLORIDE	500	b,e
1314563	PHOSPHORUS PENTOXIDE	10	b,e
7719122	PHOSPHORUS TRICHLORIDE	1000	
57476	PHYSOSTIGMINE	100/10000	e
57647	PHYSOSTIGMINE, SALICYLATE(1:1)	100/10000	e
124878	PICROTOXIN	500/10000	e
110894	PIPERIDINE	1000	e
23505411	PIRIMIFOS-ETHLY	1000	e
10124502	POTASSIUM ARSENITE	500/10000	d
151508	POTASSIUM CYANIDE	100	b
506616	POTASSIUM SILVER CYANIDE	500	b
2631370	PROMECARB	500/10000	e,h
106967	PROPARGYL BROMIDE	10	e
57578	PROPIOLACTONE, BETA-	500	e
107120	PROPIONITRILE	500	
542767	PROPIONITRILE, 3-CHLORO-	1000	
70699	PROPIOPHENONE, 41-AMINO	100/10000	elg
109615	PROPYL CHLOROFORMATE	500	e
75569	PROPYLENE OXIDE	10000	l
75558	PROPYLENEIMINE	10000	d
2275185	PROTHOATE	100/10000	e
129000	PYRENE	1000/10000	c
140761	PYRIDINE, 2-METHYL-5-VINYL-	500	e
504245	PYRIDINE, 4-AMINO-	500/10000	4
1124330	PRIDINE, 4-NITRO-,I-OXIDE	500/10000	e
53558251	PYRIMINIL	100/10000	e,h
14167181	SALCOMINE	500/10000	e
107448	SARIN	10	e,h
7783008	SELENIOUS ACID	1000/10000	
7791233	SELENIUM OXYCHLORIDE	500	e
563417	SEMICARBAZIDE HYDROCHLORIDE	1000/10000	e
3037727	SILANE, (4-AMINOBUTYL)DIETHOXYMETHYL-	1000	e
7631892	SODIUM ARSENATE	1000/10000	d
7784465	SODIUM ARSENITE	500/10000	d
26628228	SODIUM AZIDE(NA(N3))	500	b
124652	SODIUM CACODYLATE	100/10000	e
143339	SODIUM CYANIDE(NA(CN))	100	b
62748	SODIUM FLOUOROACETATE	10/10000	
13410010	SODIUM SELENATE	100/10000	e
10102188	SODIUM SELENITE	100/10000	h
10102202	SODIUM TELLURITE	500/10000	e
900958	STANNANE, ACETOXYTRIPHENYL-	500/10000	e,g
57249	STRYCHNINE	100/10000	c
60413	STRYCHNINE, SULFATE	100/10000	e
3689245	SULFOTEP	500	
3569571	SULFOXIDE, 3-CHLOROPROPYLCOTYL	500	e
7446095	SULFUR DIOXIDE	500	e,l
7783600	SULFUR TETRAFLUORIDE	100	e
7446119	SULFUR TRIOXIDE	100	b,e
7664939	SUFURIC ACID	1000	
77816	TABUN	10	c,e,h
13494809	TELLURIUM	500/10000	e
7783804	TELLURIUM HEXAFLUORIDE	100	e,k
107493	TEPP	100	
13071799	TERBUFOS	100	e,h
78002	TETRAETHYL LEAD	100	c,d
597648	TETRAETHYLTIN	100	c,e
75741	TETRAMETHYL LEAD	100	c,e,l
509148	TETRANITROMETHANE	500	
10031591	THALLIUM SULFATE	100/10000	h
6533739	THALLOUS CARBONATE	100/10000	c,h
7791120	THALLOUS CHLORIDE	100/10000	c,h
2757188	THALLOUS MALONATE	100/10000	c,e,h
7446186	THALLOUS SULFATE	100/10000	
2231574	THIOCARBAZIDE	1000/10000	e
39196184	THIOFANOX	100/10000	
297972	THIONAZIN	500	
108985	THIOPHENOL	500	
79196	THIOSEMICARBAZIDE	100/10000	
5344821	THIOUREA, (2-CHLOROPHENYL)-	100/10000	
614788	THIOUREA, (2-METHYLPHENYL)-	500/10000	e
7550450	TITANIUM TETRACHLORIDE	100	e
584848	TOLUENE 2,4-DIISOCYANATE	500	

91087	TOLUENE 2,6-DIISOCYANATE	100	
110576	TRANS-1,4-DICHLOROBUTENE	500	e
1031476	TRIAMIPHOS	500/10000	e
24017478	TRIAZOFOS	500	e
76028	TRICHLOROACETYL CHLORIDE	500	e
115219	TRICHLOROETHYLSILANE	500	e,h
327980	TRICHLORONATE	500	e,k
98135	TRICHLOROPHENYLSILANE	500	e,h
1558254	TRICHLORO(CHLOROMETHYL)SILANE	100	e
27137855	TRICHLOR(DICHLOROPHENYL)SILANE	500	e
998301	TRIETHOXYSILANE	500	e
75774	TRIMETHYLCHLOROSILANE	1000	e
824113	TRIMETHYLOLPROPANE PHOSPHITE	100/10000	e,h
1066451	TRIMETHYLTIN CHLORIDE	500/10000	e
639587	TRIPHENYLTIN CHLORIDE	500/10000	e
555771	TRIS(2-CHLOROETHYL)AMINE	100	e,h
2001958	VALINOMYCIN	1000/10000	c,e
1314621	VANADIUM PENTOXIDE	100/10000	
08054	VINYL ACETATE MONOMER	1000	d,l
81812	WARFARIN	500/10000	
129066	WARFARINSODIUM	100/10000	e,h
28347139	XYLYENE DICHLORIDE	100/10000	e
58270089	ZINC, DICHLORO(4,4-DIMETHYL-5((((METHYLAM-ION)CARBONYL)OXY)IMINO)PENTANENITRILE) (T-4)-	100/10000	e
1314847	ZINC PHOSPHIDE	500	

*Only the statutory or final RQ is shown. for more information, see 40 CFR Table 302.4.

Notes:

a This chemical does not meet acute toxicity criteria. Its TPQ is set at 10,000 pounds.

b This material is a reactive solid. The TPQ does not default to 10,000 pounds for nonpower, nonmolten, nonsolution form.

c The calculate TPQ changed after techinical review as described in the technical support document.

d Indicates that the RQ is subject to change when the assessment of potential carcinogenicity and/or other toxicity is completed.

e Statutory reportable quantity for purposes of notification under SARA sect 304(a)(2).

f The statutor 1 pound reportable quantity for methyl isocyanate may be adjusted in afuture rulemaking action.

g New chemicals added that were not part of the original list of 402 substances.

h Revised TPQ based on new or reevaluated toxicity data.

j TPQ is revised to its calculated value and does not change due to technical review as in propesed rule.

k The TPQ was revised after proposal due to calculation error.

i Chemicals on the original list that do not meet toxicity criteria but because of their high production volume and recognized toxicity are considered chemicals of concern ("Other Chemicals").

NOTE: For chemicals that are solids, there may be two TPQs given (e.g., 500/10,000). In these cases, the lower quantity applies for solids in power form with particles size less than 100 microns, or if the substance is in solution or in molten form. Otherwise, the 10,000 pound TPQ applies.

TAB Q-7-___

COVERED FACILITIES

FACILITY NAME

_____

St._____

City_____

FAC EMERGENCY RESP COORD

_____

Title_____

COMMUNICATIONS

Office #_____

Home #_____

R. Freq_____

Pager #_____

ALTERNATE
FAC EMERG RESP COORD

_____

Title_____

Office #_____

Home #_____

R. Freq_____

HAZARDOUS CHEMICAL(S)

NAME	UN ID#/CAS#	FORM	PACKAGED CONTAINER	MAXIMUM QUANTITY	HEALTH RISK

SKETCH OF FACILITY AND STORAGE AREAS

FACILITY RESPONSE POINT (RP) AND DIRECTIONS_____

STAGING AREA (Support units will report and await assignment by local organization)

TRANSPORTATION ROUTES AND MODES OF TRANSPORTATION (include supplier and telephone number--describe how chemicals are handled--list hazardous points along the routes)_____

SPECIAL FACILITIES LIKELY TO BE AFFECTED BY A RELEASE (List affected facilities and day/night contacts)

PROTECTIVE ACTIONS (In-place sheltering of evacuation--give brief description of area(s) where protection actions may be required--add evacuation procedures to Annex EE)_____

EMERGENCY EQUIPMENT ON HAND/TRAINING/EXERCISING_____

SPILL CONTAINMENT/CLEAN-UP/DISPOSAL_____

EMERGENCY NOTIFICATION

Local 24 hr. warning number (LEPC) ____-____-____

Haz-mat Coord. (Day)____-____-____ or ____-____-____
(Night)____-____-____ or ____-____-____

Alt. Coord. (Day)____-____-____ or ____-____-____
(Night)____-____-____ or ____-____-____

_____Fire Dept. ____-____-____

_____Police Dept. ____-____-____

DES Coord. (Day)____-____-____ or ____-____-____
(Night)____-____-____ or ____-____-____

_____ Rescue ____-____-____ or ____-____-____

_____ Ambulance ____-____-____ or ____-____-____

Kentucky Emergency Response Commission (KERC) 502-564-7815

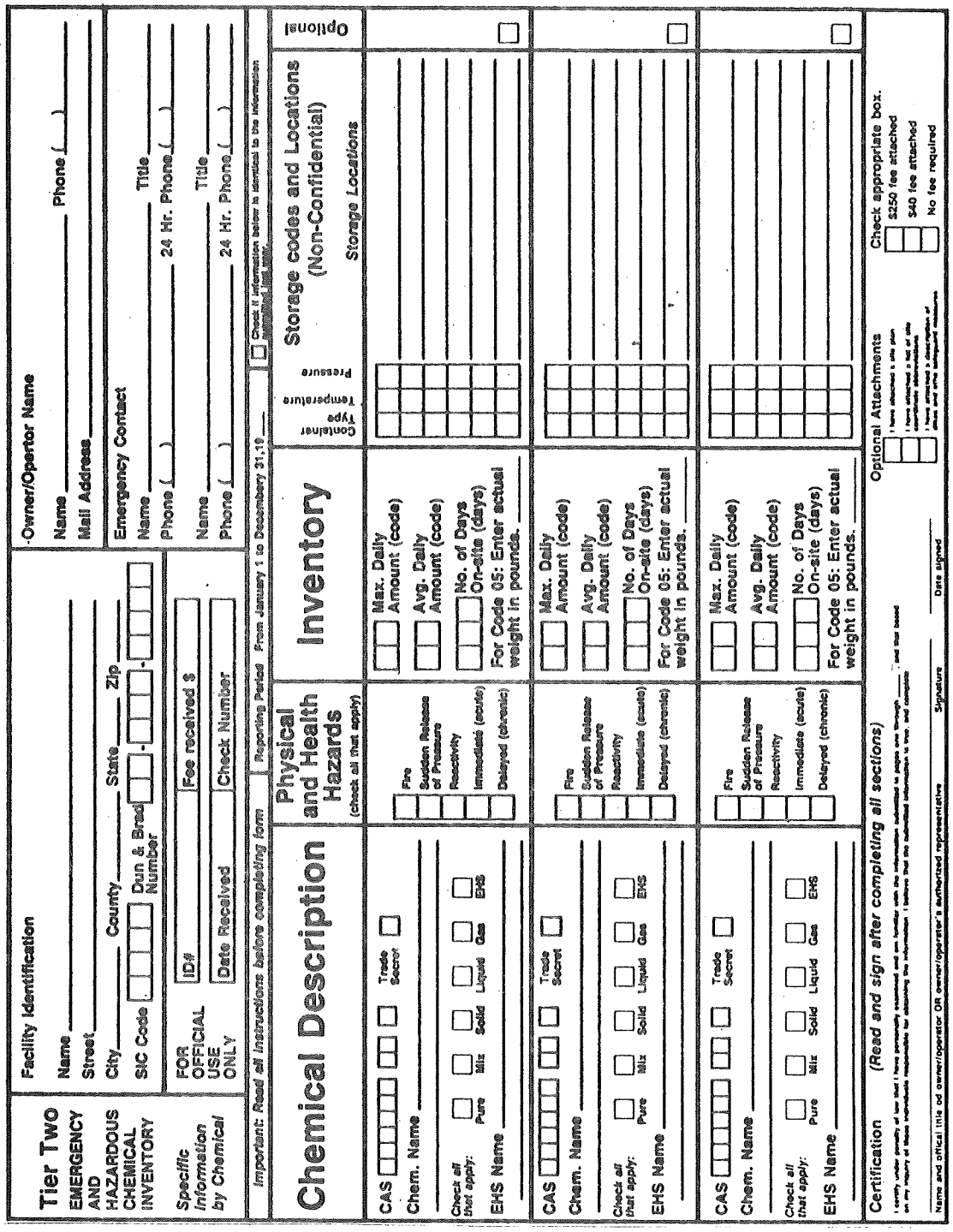
Kentucky DES Area Coordinator (O) ____-____-____
(H) ____-____-____

Nat. Resources & Envir. Prot. Cabinet (NR&EPC) 502-564-2380

National Response Center (NRC) 1-800-424-8802

Evir. Prot. Agency (EPA) Hotline 1-800-535-0202
Hours: 8:30 a.m. - 7:30 p.m., Mon-Fri.
including federal holidays

Chemtrec 1-800-424-9300



KENTUCKY EMERGENCY RESPONSE COMMISSION

Tier Two
EMERGENCY AND HAZARDOUS CHEMICAL INVENTORY

Specific information by Chemical

Facility Identification

Name _____

Street _____

City _____ County _____ State _____ Zip _____

SIC Code ☐☐☐☐ Dun & Brad Number ☐☐-☐☐☐-☐☐☐☐

FOR OFFICIAL USE ONLY | ID# | Fee received $ | Date Received | Check Number

Owner/Opertor Name

Name _____ Phone ( ) _____

Mail Address _____

Emergency Contact

Name _____ Title _____

Phone ( ) _____ 24 Hr. Phone ( ) _____

Name _____ Title _____

Phone ( ) _____ 24 Hr. Phone ( ) _____

Important: Read all instructions before completing form

Reporting Period From January 1 to Decembery 31,19__

☐ Check if information below is identical to the information submitted last year.

Confidential Location Information Sheet

CAS ☐☐☐☐☐☐☐☐☐ ☐ Chem. Name ☐	Container Type / Temperature / Pressure	Storage codes and Locations (Non-Confidential) *Storage Locations*	Optional
	☐☐☐	_____	☐
	☐☐☐	_____	☐
	☐☐☐	_____	☐

Certification *(Read and sign after completing all sections)*

I certify under penalty of law that I have personally examined and am familiar with the information submitted in pages one through _____ , and that based on my inquiry of those individuals responsible for obtaining the information, I believe that the submitted information is true, and complete.

Name and offical title od owner/operator OR owner/operator's authorized representative _____ Signature _____ Date signed _____

Optional Attachments

☐ I have attached a site plan

☐ I have attached a list of site coordinate abbreviations

☐ I have attached a description of dikes and othe safeguard measures

Check appropriate box.

☐ $250 fee attached

☐ $40 fee attached

☐ No fee required

DES/SARA-312c

Page _____ of _____ pages

KENTUCKY EMERGENCY RESPONSE COMMISSION
TIER TWO INSTRUCTIONS
GENERAL INFORMATION

Submission of this Tier Two form is required by the Kentucky Emergency Response Commission in accordance with Title III of the Superfund Amendments and Reauthorization Act of 1986, Section 312 and KRS 39.990 and subsequent regulations. The purpose of this Tier Two form is to provide State and local officials and the public with specific information on hazardous chemicals present at your facility during the past year.

CERTIFICATION

The owner or operator or officially designated representative of the owner or operator must certify that all information included in the Tier Two submission is true, accurate, and complete. On the first page of the Tier Two report, enter your full name and official title. Sign your name and enter the current date. Also, enter the total number of pages included in the Confidential and Nonconfidential information Sheets as well as all attachments. An original signature is required on at least the first page of the submission. Submissions to the SERC, LEPC, and fire department must each contain and original signature on at least the first page. Subsequent pages must contain either an original signature, a photocopy of the original signature, or a signature stamp. Each page must contain the date on which the original signature was affixed to the first page of the submission and the total number of pages in the submission.

YOU MUST PROVIDE ALL INFORMATION REQUESTED ON THIS FORM TO FULFILL ANNUAL CHEMICAL INVENTORY REQUIREMENTS.

THE KENTUCKY EMERGENCY RESPONSE COMMISSION REQUIRES SUBMISSION OF THE TIER TWO FORM.

WHO MUST SUBMIT THIS FORM

This request applies to the owner or operator of any facility that is required, under regulations implementing the Occupational Safety and Health Act of 1970, to prepare or have available a Material Safety Data Sheet (MSDS) for a hazardous chemical present at the facility. MSDS requirements are specified in the Occupational Safety and Health Administration (OSHA) Hazard Communication Standard, found in Title 29 of the Code of Federal Regulations at 1910.1200.

WHAT CHEMICALS ARE INCLUDED

You must report the required information on this Tier Two form for each hazardous chemical present at your facility in quantities equal to or greater than established threshold amounts (discussed below), unless the chemicals are excluded under Section 311(e) of Title III. Hazardous chemicals are any substance for which your facility must maintain an MSDS under OSHA's Hazard Communication Standard.

WHAT CHEMICALS ARE EXCLUDED

Section 311(e) of Title III excludes the following substances:

(I) Any food, food additive, color additive, drug, or cosmetic regulated by the Food and Drug Administration:

(II) Any substance present as a solid in any manufactured item to the extent exposure to the substance does not occur under normal conditions of use:

(III) Any substance to the extent it is used for personal, family, or household purposes, or is present in the same form and concentration as a product packaged for distribution and use by the general public:

(IV) Any substance to the extent it is used in a research laboratory or a hospital or other medical facility under the direct supervision of a technically qualified individual:

(V) Any substance to the extent it is used in routine agricultural operations or is a fertilizer held for sale by a retailer to the ultimate customer.

OSHA regulations, Section 1910.1200(b), stipulate exemptions from the requirement to prepare or have available an MSDS.

REPORTING THRESHOLDS

Minimum thresholds have been established for Tier Two reporting under Title III, Section 312. These thresholds are as follows:

For Extremely Hazardous Substances (EHSs) designated under section 302 of Title III, the reporting threshold is 500 pounds (or 227 kg.) or the threshold planning quantity (TPQ), whichever is lower:

For all other hazardous chemicals for which facilities are required to have or prepare an MSDS, the minimum reporting threshold is 10,000 pounds (or 4,540 kg.).

You need to report hazardous chemicals that were present at your facility at any time during the previous calendar year at levels that equal or exceed these thresholds. For instructions on threshold determinations for components of mixtures, see "What About Mixtures?" on page 2 of these instructions.

Please read these instructions carefully. Print or type all responses.

WHEN TO SUBMIT THIS FORM

Owners or operators of facilities that have hazardous chemicals on hand in quantities equal to or greater than set threshold levels must submit a Tier Two form by March 1.

WHERE TO SUBMIT FEE

(See Fee Schedule on page 4)

Checks shall be made payable to: "Kentucky State Treasurer" and shall be marked "For KyERC Fee Account". Fees and form shall be mailed to:

Chairman, Kentucky Emergency Response Commission
EOC Building, Boone National Guard Center
Frankfort, KY 40601-6168

WHERE TO SUBMIT THIS FORM

Send a completed Tier Two form(s) to each of the following organizations:

1. Your State Emergency Response Commission.
2. Your Local Emergency Planning Committee.

3. The fire department with jurisdiction over your facility.

PENALTIES

Any owner or operator who violates any Tier Two reporting requirements shall be subject to penalties as set forth in P.L. 99-499, Title III, Section 325 and KRS Chapter 39.990 and subsequent regulations.

If your Tier Two responses require more than one page use additional forms and fill in the page number at the bottom of the form.

REPORTING PERIOD

Enter the appropriate calendar year, beginning January 1 and ending December 31.

FACILITY IDENTIFICATION

Enter the full name of your facility (and company identifier where appropriate).

Enter the full street address or state road. If a street address is not available, enter other appropriate identifiers that describe the physical location of your facility (e.g. longitude and latitude). Include city, county, state, and zip code.

Enter the primary Standard industrial Classification (SIC) code and the Dun & Bradstreet number for your facility. The financial officer of your facility should be able to provide the Dun & Bradstreet number. If your firm does not have this information, contact the State or regional office of Dun & Bradstreet to obtain your facility number or have one assigned.

OWNER/OPERATOR

Enter the owner's or operator's full name, mailing address, and phone number.

EMERGENCY CONTACT

Enter the name, title, and work phone number of at least one local person or office who can act as a referral if emergency responders need assistance in responding to a chemical accident at the facility.

Provide an emergency phone number where such emergency information will be available 24 hours a day, every day. This requirement is mandatory. The facility must make some arrangement to ensure that a 24 hour contact is available.

IDENTICAL INFORMATION

Check the box indicating identical information, located below the emergency contacts on the Tier Two form, if the current chemical information being reported is identical to that submitted last year. Chemical descriptions, hazards, amounts, and locations must be provided in this year's form, even if the information is identical to that submitted last year.

CHEMICAL INFORMATION: Description, Hazards, Amounts, and Locations

The main section of the Tier Two form requires specific information on amounts and locations of hazardous chemicals, as defined in the OSHA Hazard Communication Standard.

If you choose to indicate that all of the information on a specific hazardous chemical is identical to that submitted last year, check the appropriate optional box provided at the right side of the storage codes and locations on the Tier Two form. Chemicals descriptions, hazards, amounts, and locations must be provided even if the information is identical to that submitted last year.

- What units should I use?

  Calculate all amounts as weight in pounds. To convert gas or liquid volume to weight in pounds, multiply by an appropriate density factor.

- What about mixtures?

  If a chemical is part of a mixture, you have the option of reporting either the weight of the entire mixture of only the portion of the mixture that is a particular hazardous chemical (e.g.. if a hazardous of only 5% of a particular hazardous chemical, you can indicate either 100 lbs. of the mixture or 5lbs. of the chemical).

  The option used for each mixture must be consistent with the option used in your Section 311 reporting.

  Because EHSs are important to Section 303 planning, EHSs have lower thresholds. The amount of an EHS at a facility (both pure EHS substances and EHSs in mixtures) must be aggregated for purposes of threshold determination. It is suggested that the aggregation calculation be done as a first step in making the threshold determination. Once you determine whether a threshold for an EHS has been reached, you should report either the total weight of the EHS at your facility, or the weight of each mixture containing the EHS.

CHEMICAL DESCRIPTION

1. Enter the Chemical Abstract Service registry number (CAS). For mixtures, enter the CAS number of the mixtures as a whole if it has been assigned a number distinct from its constituents. For a mixture that has no CAS number, leave this item blank or report the CAS number of as many constituent as possible.

If you are withholding the name of a chemical in accordance with criteria specified in Title III, Section 322, enter the generic class or category that is structurally descriptive of the chemical (e.g., list toulene disocyanate as organic (sooyante) and check the box marked Trade Secret. Trade secret information should be submitted to EPA and must include a substantiation. Please refer to EPA's final regulation on trade secrecy (53 FR 28772, July

29, 1988) for detailed information on how to submit trade secrecy claims.

2. Enter the chemical name or common name of each hazardous chemical.

3. Check box for ALL applicable descriptors: pure or mixture; and solid, liquid, or gas; and whether the chemical is or contains an EHS.

4. If the chemical is a mixture containing EHS, enter the chemical name of each EHS in the mixture.

EXAMPLE:
You have pure chlorine gas on hand, as well as two mixtures that contain liquid chlorine. You write "chlorine" and enter the CAS number. Then you check "pure" and "mix" -- as well as "liquid" and "gas".

PHYSICAL AND HEATH HAZARDS

For each chemical you have listed, check all the physical and health hazard boxes that apply. These hazard categories are defined in 40 CFR 370.2. The two health hazard categories and three physical hazard categories are a consolidation of the 23 hazard categories defined in the OSHA Hazard Communication Standard, 29 CFR 1910.1200.

Hazard Category Comparison
For Reporting Under Section 311 and 312

EPA's Hazard Categories	OSHA's Hazard Categories
Fire Hazard	Flammable Combustion Liquid Pyrophoric Oxidizer
Sudden Release of Pressure	Explosive Compressed Gas
Reactive	Unstable Reactive Organic Peroxide Water Reactive
Immediate (Acute) Health Hazards	Highly Toxic Toxic Irritant Sensitizer Corrosive
	Other hazardous Chemicals with an adverse effect with short term exposure
Delayed (Chronic) Health Hazard	Carcinogens
	Other hazardous chemicals with an adverse effect with long term exposure

MAXIMUM AMOUNT

1. For each hazardous chemical, estimate the greatest amount present at your facility on any single day during the reporting period.

2. Find the appropriate range value code in Table I.

3. Enter this range value as the Maximum Amount.

4. If range value 05 (100,000 to 999,999) is used for the maximum daily amount, enter the actual weight in pounds in the Inventory column directly below the code number. This is necessary to determine the appropriate fee category.

TABLE I REPORTING RANGE

Range Value	Weight Range in Pounds From...	To...
01	0	99
02	100	999
03	1,000	9,999
04	10,000	99,999
05	100,000	999,999
06	1,000,000	9,999,999
07	10,000,000	49,999,999
08	50,000,000	99,999,999
09	100,000,000	499,999,999
10	500,000,000	999,999,999
11	1 billion	higher than 1 billion

EXAMPLE:

You received one large shipment of solvent mixture last year. The shipment filled five 5,000-gallon storage tanks. You know that the solvent contains 10% benzene, which is a hazardous chemical.

You figure that 10% of 25,000 gallons is 2,500 gallons. You also know that the density of benzene is 7.29 pounds per gallon, so you multiply 2,500 gallons by 7.29 pounds per gallon to get a weight of 18.225 pounds.

Then you look at Table I and find that the range value o4 corresponds to 18.225. You enter 04 as the Maximum Amount.

AVERAGE DAILY AMOUNT

1. For each hazardous chemical, estimate the average weight in pounds that was present at your facility during the year.

   To do this, total all daily weights and divide by the number of days the chemical was present on the site.

2. Find the appropriate range value in Table I.

3. Enter this range value as the Average Daily Amount.

EXAMPLE:
The 25,000-gallon shipment of solvent you received last year was gradually used up and completely gone in 315 days. The sum of the daily volume levels in the tank is 4,536,000 gallons. By dividing 4,536,000 gallons by 315 days on site, you calculate an average daily amount of 14,400 gallons.

You already know that the solvent contains 10% benzene, which is a hazardous chemical. Since 10% of 14,400 is 1,440, you figure that you had an average of 1,440 gallons of benzene. You also

know that the density of benzene is 7.29 pounds per gallon, so you multiply 1,440 by 7.29 to get a weight of 10,500 pounds.

Then you look at Table I and find that the range value 04 corresponds to 10,500. You enter 04 as the Average Daily Amount.

(If you are using the form as a worksheet for completing a Tier One form, you should write 10,500 in the shaded area.)

NUMBER OF DAYS ON SITE
Enter the number of days that the hazardous chemical was found on site.

EXAMPLE:
The solvent composed of 10% benzene was present for 315 days at your facility. Enter 315 in the space provided.

STORAGE CODES AND STORAGE LOCATIONS

List all nonconfidential chemical locations in this column, along with storage types/conditions associated with each location. Please note that a particular chemical may be located in several places around the facility. Each row of boxes followed by a line represents a unique location for the same chemical.

Storage Codes: Indicate the types and conditions of storage present.

a. Look at Table II. For each location, find the appropriate storage type and enter the corresponding code in the first box.

b. Look at Table III. For each location, find the appropriate storage types for pressure and temperature conditions. Enter the applicable pressure code in the second box. Enter the applicable temperature code in the third box.

TABLE II - STORAGE TYPES

CODES	TYPES OF STORAGE
A	Above ground tank
B	Below ground tank
C	Tank inside building
D	Steel drum
E	Plastic or nonmetallic drum
F	Can
G	Carboy
H	Silo
I	Fiber drum
J	Bag
K	Box
L	Cylinder
M	Glass bottles or jugs
N	Plastic bottles or jugs
O	Tote bin
P	Tank wagon
Q	Rail car
R	Other

TABLE III - TEMPERATURE AND PRESSURE CONDITIONS

CODES	STORAGE CONDITIONS
	(PRESSURE)
1.	Ambient pressure
2.	Greater than ambient pressure
3.	Less than ambient pressure
	(TEMPERATURE)
4.	Ambient temperature
5.	Greater than ambient temperature
6.	Less than ambient temperature but not cryogenic
7.	Cryogenic conditions

EXAMPLE:

The benzene in the main building is kept in a tank inside the building, at ambient pressure and less than ambient temperature.

Table II shows you that the code for a tank inside a building is C. Table III shows you that the code for ambient pressure is 1, and the code for less than ambient temperature is 6.

You enter: C-1-6

TIER TWO INSTRUCTIONS

Storage Locations

Provide a brief description of the precise location of the chemical, so that emergency responders can locate the area easily. You may find it advantageous to provide the optional site plan or site coordinates as explained below.

For each chemical, indicate at a minimum the building or lot. Additionally, where practical, the room or area may be indicated. You may respond in narrative form with appropriate site coordinates or abbreviations.

If the chemical is present in more than one building, lot, or area location, continue your responses down the page as needed. If the chemical exists everywhere at the plant site simultaneously, you may report that the chemical is ubiquitous at the site.

Optional Attachments: If you choose to attach one of the following, check the appropriate Attachments box at the bottom of the Tier Two form.

a. A site plan with site coordinates indicated for building, lots, areas, etc. throughout your facility.

b. A list of site coordinate abbreviations that correspond to building, lots, areas, etc. throughout your facility.

c. A description of dikes and other safeguard measures for storage locations throughout your facility.

EXAMPLE:

You have benzene in the main room of the main building, and in tank 2 in tank field 10. You attach a site plan with coordinates as follows: main building = G-2, tank field 10 = B-6. fill in the Storage Location as follows:

B-6 [Tank 2] G-2 [Main Room]

CONFIDENTIAL INFORMATION

Under Title III, Section 324, you may elect to withhold location information on a specific

chemical from disclosure to the public, if you choose to do so.

- Enter the word "confidential" in the Nonconfidential Location section of the Tier Two form on the first line of the storage locations.

- On a separate Tier Two Confidential Location Information Sheet, enter the name and CAS number of each chemical for which you are keeping the location confidential.

- Enter the appropriate location and storage information, as described above for nonconfidential locations.

- Attach the Tier Two Confidential Location information Sheet to the Tier Two form. This separates confidential locations from other information that will be disclosed to the public.

CERTIFICATION

Instructions for this section are included on page one of these instructions.

FEE SCHEDULE

Check appropriate box on the form.

$0 Category One Facility is owned or operated by local, state or federal government.

$40 Category Two Facility has no less than 10,000 pounds and no more than 499,999 pounds of each of ten (10) or fewer hazardous substances.

The combined total of all hazardous substances shall not exceed 499,999 pounds.

$250 Category Three Facility has 10,000 pounds or more of each 11 or more hazardous substances. The combined total of all hazardous substance shall not exceed 499,999 pounds.

$250 Category Four Facility has a total of over 499,999 pounds of hazardous substances.

$250 Category Five Facility has an extremely hazardous substance in excess of the threshold planning quantity.

DEPARTMENT FOR MILITARY AFFAIRS
Division of Disaster and Emergency Services

106 KAR 1:090. Kentucky emergency response commission fee account grant requirements for local emergency planning committees.

RELATES TO: KRS 39.800 to 39.990, 42 USC 11001 to 11050

STATUTORY AUTHORITY: KRS 39.817, 39.845, 39.850

NECESSITY AND FUNCTION: This regulation establishes criteria and procedures to be met by local emergency planning committees requesting funds generated by KRS 39.817.

Section 1. To be eligible for financial assistance, local emergency planning committees which have extremely hazardous substances as listed in 106 KAR 1:080, Section 6, in excess of the threshold planning quantity present in their community shall meet all the following criteria:

(1) The local emergency planning committee shall meet all requirements set forth in KRS 39.840.

(2) The local emergency planning committee shall have an emergency response plan pursuant to KRS 39.840(1)(a), (e), (f) and 39.860 that has been approved by the Kentucky Emergency Response Commission.

(a) The local emergency planning committee's emergency response plan shall contain a Tab Q-7 listed in Section 6 of 106 KAR 1:080 for each facility in the planning district that has an extremely hazardous substance listed in Section 6 of 106 KAR 1:080 in excess of the threshold planning quantity.

(b) The plan, with all revisions and updates, shall be submitted to the State Disaster and Emergency Services Area Coordinator no later than April 1 each year.

(c) The State Disaster and Emergency Services Area Coordinator shall review the plan, with all revisions and updates, for completeness, note any recommendations and forward it to the Chairman of the Kentucky Emergency Response Commission, or designee, no later than May 1.

(3) The local emergency planning committee shall meet at least semiannually to conduct its business and a quorum shall be required.

(4) No later than December 1 each year, the local emergency planning committee shall submit an updated membership list to the Kentucky Emergency Response Commission.

(5) In accordance with KRS Chapter 424 (Legal Notice), the local emergency planning committee shall annually publish public information on committee activities entitled "Public (Legal) Notice Advertisement" on form DES/SARA-324.

Section 2. To be eligible for financial assistance, local emergency planning committees which do not have any extremely hazardous substances as listed in 106 KAR 1:080, Appendix A in excess of the threshold planning quantity present in their community shall meet the following criteria:

(1) The local emergency planning committee shall meet criteria set forth in KRS 39.840 (1)(b), (c), (d), (2), (4), (5) and Section 1(4) and (5) of this regulation.

(2) The local emergency planning committee shall meet at least annually to conduct its business and a quorum shall be required.

Section 3. Local Emergency Planning Committee Procedures. (1) If a local emergency planning committee requests financial assistance, it shall use Grant Request Form DES/SARA-303 and shall include a detailed budget identifying how the requested funds are to be spent.

(2) The grant request form shall be submitted to the State Disaster and Emergency Services Area Coordinator no earlier than January 1 and no later than May 1.

(3) The State Disaster and Emergency Services Area Coordinator shall review the grant request form for completeness and conformance to statutes and regulations, note any recommendations and forward it to the Chairman of the Kentucky Emergency Response Commission or designee, no later than June 1.

(4) The Chairman of the Kentucky Emergency Response Commission, or designee, shall review

the grant request form for completeness and conformance to statutes and regulations, note any recommendations and forward it to the Grant Review Committee no later than July 1.

(5) The Grant Review Committee, with a quorum present, shall review all grant requests and forward their recommendations no later than August 15 to the Kentucky Emergency Response Commission for final approval.

(6) The Kentucky Emergency Response Commission shall make the grant awards no later than September 15.

(7) The State Disaster and Emergency Services Area Coordinator, the Chairman of the Kentucky Emergency Response Commission, or designee, or the Grant Review Committee may request additional information which shall be provided by the local emergency planning committee. Failure to provide the requested information shall invalidate the local emergency planning committee's request for funding.

Section 4. Requests for Modifications. (1) A modification of a grant award is required if there is a change in the grant request or if a local emergency planning committee is unable to expend the funds for which the grant was awarded. A request for modification shall be submitted by the LEPC for approval by the commission. Unexpended monies shall be returned to the fund.

(2) Requests for modifications of grant awards shall be submitted on Grant Request Form DES/SARA-303 and, except for due dates, shall be processed in accordance with Sections 3 and 6 of this regulation.

(3) Modifications may be submitted throughout the grant period.

Section 5. Supplemental Grant Awards. (1) In the event supplemental money is available, the Kentucky Emergency Response Commission shall determine the date of the supplemental allocation award and inform the local emergency planning committees of that date.

(2) Requests for supplemental money shall be submitted on Grant Request Form DES/SARA-303 and, except for due dates, shall be processed in accordance with this section and Sections 3 and 6 of this regulation.

(3) If a local emergency planning committee requests supplemental money the schedule of due dates is:

(a) Thirty (30) days from notification by the Kentucky Emergency Response Commission of the availability of supplemental money, the local emergency planning committee shall submit the supplemental grant request to the State Disaster and Emergency Services Area Coordinator.

(b) Thirty (30) days from receipt of the supplemental grant request, the State Disaster and Emergency Services Area Coordinator shall review the supplemental grant request in accordance with Sections 3 and 6 of this regulation and forward it to the Chairman of the Kentucky Emergency Response Commission, or designee.

(c) Thirty (30) days from receipt of the supplemental grant request, the Chairman of the Kentucky Emergency Response Commission, or designee, shall review the supplemental grant request in accordance with Sections 3 and 6 of this regulation and forward it to the Grant Review Committee.

(d) Forty-five (45) days from receipt of the supplemental grant request, the Grant Review Committee, with a quorum present, shall review the supplemental grant request in accordance with Sections 3 and 6 of this regulation and forward their recommendations to the Kentucky Emergency Response Commission.

(e) Thirty (30) days from receipt of the recommendation of the Grant Review Committee, the Kentucky Emergency Response Commission shall make the supplemental grant award.

Section 6. Requirements for Funding Accountability. (1) Funds provided by the Kentucky Emergency Response Commission shall be deposited in a separate "(Name of County) Emergency Planning Committee Fee Account" and fiscal accountability shall be prescribed by the state auditor of public accounts. All funds shall be subject to audit by the Kentucky Emergency Response Commission and the state auditor of public accounts.

(2) The bylaws of each local emergency planning committee shall identify financial responsibility and shall be submitted simultaneously with the grant request.

(3) The local emergency planning committee shall provide documentation of expenditures for the preceding year on each grant request submitted except for the initial grant request.

(4) Grant awards approved by the Kentucky Emergency Response Commission may be withheld for noncompliance with KRS 39.800 to 39.990 and administrative regulations issued thereunder and for failure to provide required documentation.

(5) All funding allocation decisions shall be made by the Kentucky Emergency Response Commission and shall be dependent upon availability of fees collected.

This is to certify that the Kentucky Emergency Response Commission has recommended that this administrative regulation be adopted.

JAMES H. MOLLOY, Chairman
Kentucky Emergency Response Commission

MICHAEL W. DAVIDSON, Brigadier General
APPROVED BY AGENCY: April 10, 1991
FILED WITH LRC: April 11, 1991 at 1 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on May 22, 1991, 9 a.m. at Boone National Guard Center, EOC Building Conference Room. Individuals interested in being heard at this hearing shall notify this agency in writing by May 17, 1991, 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 the contact person: James H. Molloy, Chairman, Boone National Guard Center, Frankfort, KY 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roger Green

(1) Type and number of entities affected: There are 120 local emergency planning committees (LEPCs) which could request funding through this regulation. LEPCs are extensions of the state commission and administer its programs at the local level.

(a) Direct and indirect costs or savings to those affected: There are no direct costs or savings to apply for a grant. Indirect costs will occur as the LEPCs meet the criteria established in order to become eligible for funding.

1. First year: Indirect costs will occur as the LEPCs meet the established eligibility criteria.

2. Continuing costs or savings: Indirect costs will occur as the LEPCs meet the established eligibility criteria.

3. Additional factors increasing or decreasing costs (note any effects upon competition): No known additional factors will affect costs.

(b) Reporting and paperwork requirements: In order to receive financial assistance the LEPC shall utilize DES/SARA Form 303. This form was designed to provide the commission with appropriate information upon which to consider a grant. The LEPC must annually have published a legal notice on committee activities. DES/SARA Form 324 is designed to provide a convenient, ready format to fulfill this obligation.

(2) Effects on the promulgating administrative body: While the overall burden on the promulgating body will significantly lessen, some staff support will continue; in this case a review of the grant application by staff will be performed to determine if the application is complete and conforms to applicable regulations. Staff will also perform an annual review of the LEPC emergency response plan for completeness and make recommendations to the commission chairman. These functions will be assumed by a dedicated Title III staff when employed.

(a) Direct and indirect costs or savings: There are no direct costs associated with this regulation. Indirect costs include the time spent by staff fulfilling their responsibilities for review and comment.

1. First year: Indirect costs for review and comments will occur.

2. Continuing costs or savings: The indirect cost to the promulgating agency will be an annual one.

3. Additional factors increasing or decreasing costs: There are no known additional factors to affect costs.

(b) Reporting and paperwork requirements: The staff members must receive and review both the LEPC plan and the LEPC grant application. A recommendation or report will be subsequently furnished the commission chairman.

(3) Assessment of anticipated effect on state and local revenues: LEPCs will receive funds to administer commission programs at the local level. The funds will be state revenue generated through program fees.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Alternate methods were not assessed as the commission was obligated to adopt grant requirements for LEPCs.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no conflicting regulations, statutes, or policy.

(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: None

TIERING: Was tiering applied? Yes. This regulation separates the LEPCs into those with facilities reporting extremely hazardous substances and those without such facilities.

PUBLIC (LEGAL) NOTICE ADVERTISEMENT
_____ COUNTY EMERGENCY PLANNING COMMITTEE

Pursuant to Section 324, Title III of the 1986 Federal Superfund Amendments and Reauthorization Act (SARA) of 1986 (PL 99-499), the following information is provided in compliance with the Community Right-to-Know requirements of the SARA Law, and the open meetings and open records provisions of Kentucky Revised Statutes. Members of the public may contact the (name of county) County Emergency Planning Committee by writing (name of chairman), Chairman of the (name of county) County Emergency Planning Committee, (working address of chairman or committee), (city), Kentucky (zip code), or contacted by telephone at (area code), (telephone number established by the committee). The (name of county) County Emergency Planning Committee conducts meetings at (name of building), (local address), or at other locations, in accordance with the Kentukcy Open Meetings Law. Members of the public may request to be notified of regular or special meetings as provided in KRS 61.820 and KRS 61.825. Records of the Planning Committee, including the county emergency response plan, material safety data sheets, and inventory forms, or any follow-up emergency notices as may subsequently be issued, are open for inspection, and members of the public who wish to review these records may do so (normal hours of business), (Eastern or Central Time), (days of the week), at (location of the office or place where custodian keeps the committee files), as required by the Kentucky Open Records Law. The local 24-hour telephone number for purposes of emergency notification, as required by SARA, is (emergency number adopted by county planning committee).

KENTUCKY EMERGENCY RESPONSE COMMISSION FEE ACCOUNT FUND

Grant Application for Grant Period 09/01/9__ to 09/31/9__

DUE DATES
LPCs to ACs 05/01
ACs to State 06/01
Final Award 09/15

Received by AC _____
Reviewed by AC _____
Intial & date

Received by State _____
Reveiwed by State _____
Intial & date

APPLICANT INFORMATION

Applicant Name _____ County _____ Date _____

_____ Enter total number of Tab Q-7's with Extremely Hazardous Substances in your county. This is the total number of facilities with extremely hazardous substances in your county.

GRANT INFORMATION

Grant Amount Requested $ _____

Circle Type of Application: LEPC New Revised
State Agency New Revised

GRANT RECIPIENT

Checks shall be made payable to and mailed to the AUTHORIZED APPLICANT. THE AUTHORIZED APPLICANT is the person authorized to apply for and manage the grant. The AUTHORIZED APPLICANT shall be the designated contact person. For LEPCs, the AUTHORIZED APPLICANT and designed contact person will generally be the LEPC Chairperson.

Name and Title of Authorized Applicant and Designated Contact Person

Street Address

City, Zip and Phone Number

LEPCs shall submit grant request form DES/SARA-303 to their State Disaster and Emergency Services Area Coordinator. All required documentation shall accompany the form. Incomplete grant request forms may delay processing and may result in invalidating the request.

State agencies shall submit grant request form SES/SARA-303 to the Chirman, or designee, of the Kentucky Emergency Response Commission. All required documentation shall accompany the form. Incomplete grant request forms may delay processing and may result in invalidating the requset.

CERTIFICATION

I, the undersigned, certify to the Kentucky Emergency Response Commission that all the information is true and accurate. I further represent that the money received under this grant program will be used for the administration, development and implemintation of the Kentucky Emergency Planning and Community Right-To-Know program, known as SARA Title III, within the guidelines mandated by P.L. 99-499/Title III, KRS Chapter 39.800 to 39.990 and subsequent regulations.

Name, Title and Date

DES/SARA-303
106 KAR 1:090

BUDGET FOR GRANT APPLICATION 09/01/9__ to 09/31/9__

ATTACHMENTS

Detailed budget sheet for each budget category you request
Documentation for preceeding year's award -
Copy of published DES/SARA-324
Bylaws

INELIGIBLE ITEMS

Emergency response equipment
Reimbursement for emergency response and/or cleanup of a release
Requests for salaries by LEPCs

BUDGET CATEGORIES	GRANT REQUEST	GRANT AWARD
Right-To-Know responsibilities--includes legal notice DES/SARA-324		
Data Management--includes receiving and maintaining data under 302(c)/KRS 39.845; 304/KRS 39.840(b), 311/312/KRS 39.840(c)		
Telephone--includes 24-hour warning point for releases and cost of telephone for LEPC business		
Services--includes contracts* to support KRS 39.800 to KRS 39.990.		
Office Supplies-- includes postage, printing, copying and paper		
File cabinets, desk, chairs		
Commission-approved training		
Commission-approved travel		
TOTAL GRANT REQUEST		
LESS CARRY-OVER MONIES		
AJUSTED GRANT AWARD		

*Contracts for personal services shall be in conformance with state laws and regulations.

DES/SARA-303
106 KAR 1:090

DEPARTMENT FOR MILITARY AFFAIRS
Division of Disaster and Emergency Services

106 KAR 1:100. Kentucky emergency response commission fee account grant requirements for state agencies.

RELATES TO: KRS 39.800 to 39.990
STATUTORY AUTHORITY: KRS 39.817
NECESSITY AND FUNCTION: This regulation establishes criteria and procedures to be met by state agencies requesting funds generated by KRS 39.817.

Section 1. Eligibility of State Agencies. State agencies that perform functions to assist the Kentucky Emergency Response Commission in the administration of its programs and activities at the state level are eligible to apply for funding.

Section 2. State Agency Procedures. (1) State agencies may apply for financial assistance by completing Grant Request Form DES/SARA-303 as set out in 106 KAR 1:090 and shall include a detailed budget identifying how the requested funds are to be spent.

(2) State agencies may request funding for staff to support the commission in the administration of its programs and activities at the state level. If a request for staff is included in the grant request, the state agencies shall attach a position description detailing job duties and an organization chart defining that position within the agency.

(3) The grant request form shall be submitted directly to the Chairman of the Kentucky Emergency Response Commission, or designee, no later than May 1.

(4) The Chairman of the Kentucky Emergency Response Commission, or designee, shall review the grant request form for completeness and conformance to administrative regulations and statutes, note any recommendations and forward it to the Grant Review Committee no later than July 1.

(5) The Grant Review Committee, with a quorum present, shall review all grant requests from state agencies and forward their recommendations no later than August 15 to the Kentucky Emergency Response Commission for final approval.

(6) The Kentucky Emergency Response Commission shall make the grant awards no later than September 15.

(7) The Chairman of the Kentucky Emergency Response Commission, or designee, or the Grant Review Committee may request additional information which shall be provided by the state agency. Failure to provide the requested information shall invalidate the state agency's request for funding.

Section 3. Requests for Modifications. (1) A request for modification of a grant award is required if there is a change in the grant request or if a state agency is unable to expend the funds for which the grant was awarded. A request for modification must be submitted by the state agency for approval by the commission. Unexpended monies shall be returned to the fund.

(2) Requests for modifications of grant awards shall be submitted on Grant Request Form DES/SARA-303 as set out in 106 KAR 1:090 and, except for due dates, shall be processed in accordance with Sections 2 and 4 of this regulation. Modifications may be submitted throughout the grant period.

Section 4. Requirements for Funding Accountability. (1) Funds provided by the Kentucky Emergency Response Commission shall be subject to fiscal accountability prescribed by the state auditor of public accounts. A memorandum of agreement between the state agency making application and the Chairman of the Kentucky Emergency Response Commission shall be executed. All funds shall be subject to audit by the Kentucky Emergency Response Commission and the state auditor of public accounts.

(2) Grant awards approved by the Kentucky Emergency Response Commission may be withheld for noncompliance with KRS 39.800 to 39.990 and administrative regulations issued thereunder and for failure to provide required documentation.

(3) All funding allocation decisions shall be made by the Kentucky Emergency Response Commission and shall be dependent upon availability of fees collected.

This is to certify that the Kentucky Emergency Response Commission has recommended that this administrative regulation be adopted.

JAMES H. MOLLOY, Chairman
Kentucky Emergency Response Commission

MICHAEL W. DAVIDSON, Brigadier General
APPROVED BY AGENCY: April 10, 1991
FILED WITH LRC: April 11, 1991 at 1 p.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on May 22, 1991, 9 a.m. at Boone National Guard Center, EOC Building Conference Room. Individuals interested in being heard at this hearing shall notify this agency in writing by May 17, 1991, 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 the contact person: James H. Molloy, Chairman, Boone National Guard Center, Frankfort, KY 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roger Green
(1) Type and number of entities affected: This regulation establishes criteria and procedures to be met by state agencies applying to the commission for financial assistance.

(a) Direct and indirect costs or savings to those affected: The state agencies applying for and receiving financial assistance will realize a significant savings to their respective developmental budgets. Presently the state agencies involved with SARA, Title III choose to absorb the costs of this mandated program within existing budgets. With commission funding this will no longer occur.

1. First year: A cost for completing the

required application will occur initially.
2. Continuing costs or savings: A cost to the agencies will be saving annually since resources will not divert.
3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors.
(b) Reporting and paperwork requirements: The state agencies which apply for assistance must complete DES/SARA Form 303 and include a detailed budget.
(2) Effects on the promulgating administrative body: The promulgating body will receive the staff and resources to assist the commission administer state agency grant applications. The funds will originate from the fees remitted, not the existing agency budget. Therefore a cost to the agency will be ongoing.
(a) Direct and indirect costs or savings: Direct costs will accrue to the agency each year to support the fund application process.
1. First year: Direct costs will accrue to the agency each year to support the fund application process.
2. Continuing costs or savings: Direct costs will accrue to the agency each year to support the fund application process.
3. Additional factors increasing or decreasing costs: No known additional factors will increase or decrease costs.
(b) Reporting and paperwork requirements: Staff will process the fee application paperwork.
(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: Alternatives were not considered as the commission was required to establish grant requirements for state agencies.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no statutes, regulations, or policies which are duplicative or in conflict.
(a) Necessity of proposed regulation if in conflict: Not applicable.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. Tiering was not applied since requirements must apply equally to all applicants.

DEPARTMENT FOR MILITARY AFFAIRS
Division of Disaster and Emergency Services

106 KAR 1:110. Kentucky emergency response commission fee account grant review committee.

RELATES TO: KRS 39.800 to 39.990
STATUTORY AUTHORITY: KRS 39.817
NECESSITY AND FUNCTION: This regulation establishes the Kentucky Emergency Response Commission Grant Review Committee to review requests for financial assistance.

Section 1. Purpose of the Grant Review Committee. (1) The Grant Review Committee shall review all grant requests from local emergency planning committees and state agencies and make recommendations to the Kentucky Emergency Response Commission.
(2) The Grant Review Committee shall monitor all grant awards to ensure compliance with statutes and administrative regulations.

Section 2. Grant Review Committee Organization. (1) The Grant Review Committee shall consist of not less than five (5) nor more than nine (9) members of the Kentucky Emergency Response Commission who shall be appointed by the Chairman of the Kentucky Emergency Response Commission with approval of the commission.
(2) The chairman of the Grant Review Committee shall be elected by members of the Grant Review Committee.
(3) Members shall serve for a term of one (1) year and may be reappointed.
(4) Proxy votes or proxy membership shall not be permitted.
(5) If a member misses two (2) consecutive meetings, the position shall be considered vacant and the Chairman of the Kentucky Emergency Response Commission, with the approval of the Kentucky Emergency Response Commission, shall appoint a replacement.
(6) A quorum is required for the Grant Review Committee meetings.

This is to certify that the Kentucky Emergency Response Commission has recommended that this administrative regulation be adopted.

JAMES H. MOLLOY, Chairman
Kentucky Emergency Response Commission

MICHAEL W. DAVIDSON, Brigadier General
APPROVED BY AGENCY: April 10, 1991
FILED WITH LRC: April 11, 1991 at 1 p.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on May 22, 1991, 9 a.m. at Boone National Guard Center, EOC Building Conference Room. Individuals interested in being heard at this hearing shall notify this agency in writing by May 17, 1991, 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 the contact person: James H. Molloy, Chairman, Boone National Guard Center, Frankfort, KY 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roger Green
(1) Type and number of entities affected: This regulation establishes a commission grant review committee to review financial assistance requests from the 120 local emergency planning committees (LEPCs).
(a) Direct and indirect costs or savings to those affected: There are no direct or indirect costs.
1. First year: Not applicable.
2. Continuing costs or savings: Not applicable.

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

(b) Reporting and paperwork requirements: The commission grant review committee will review grant applications received from LEPCs in order to determine awards.

(2) Effects on the promulgating administrative body: The promulgating body will employ staff dedicated to commission activities. Funding for staff and resources will be provided by the fees submitted. This staff will help process the grant applications.

(a) Direct and indirect costs or savings:

1. First year: These costs could include staff time for department employees not directly tied to the Title III program. Other costs would be incurred for any dedicated Title III staff employed.

2. Continuing costs or savings: Dedicated Title III staff will continue to support the review process in future years.

3. Additional factors increasing or decreasing costs: No additional factors will increase or decrease cost.

(b) Reporting and paperwork requirements: Staff will process applications in the first year to assist the committee.

(3) Assessment of anticipated effect on state and local revenues: This regulation has no effect on state or local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Alternative methods were not considered because a committee to review applications was required by the commission.

(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: Not applicable.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. Tiering is not required since the committee must apply criteria equally to all applicants.

DEPARTMENT FOR MILITARY AFFAIRS
Division of Disaster and Emergency Services

106 KAR 1:120. Kentucky emergency response commission fee account grant distribution formula.

RELATES TO: KRS 39.800 to 39.990

STATUTORY AUTHORITY: KRS 39.817

NECESSITY AND FUNCTION: This regulation establishes administrative support and the grant distribution formula to be used in awarding grants for funds generated by KRS 39.817.

Section 1. Local Emergency Planning Committee Grant Distribution Formula. (1) At least fifty (50) percent of funds collected annually by KRS 39.817 shall be awarded to eligible local emergency planning committees which submit grant requests for administration, development and implementation of the Kentucky Emergency Planning and Community Right-to-Know program, known as SARA Title III, within the guidelines mandated by PL 99-499, Title III, KRS 39.800 to 39.990 and subsequent administrative regulations.

(2) The grant distribution formula to determine how much money will be available to each local emergency planning committee is:

(a) Ten (10) percent of the total amount (A) collected by April 1 divided by 120 local emergency planning committees.

$$\frac{.1(A)}{120 \text{ Local Emergency Planning Committees}}$$

Hypothetical example: $\frac{.1(200,000)}{120} = \$167$

(b) Plus twenty (20) percent of the total amount (A) collected statewide times the ratio of Kentucky Emergency Response Commission - approved Tab Q-7s (Qc) in the county to the total Kentucky Emergency Response Commission - approved Tab Q-7s (Qs) in the state.

$$.2(A)\ \frac{Qc}{Qs}$$

Hypothetical example: $.2(200,000)\ \frac{13}{1,000} = \$520$

(c) Plus twenty (20) percent of the total amount (A) collected statewide times the ratio of fee-generating Tiers (Tc) in the county to the total number of fee generating Tiers (Ts) in the state.

$$.2(a)\ \frac{Tc}{Ts}$$

Hypothetical example: $.2(200,000)\ \frac{30}{1,000} = \$400$

(d) Therefore the formula for local emergency planning committee grant (Ga) distribution to determine how much money will be available to each eligible local emergency planning committee is:

$$Ga = \frac{.1(A)}{120 \text{ LEPCs}} + .2(a)\ \frac{Qc}{Qs} + .2(A)\ \frac{Tc}{Ts}$$

(3) The grant (Gr) distribution formula to determine how much money an eligible local emergency planning committee which submits a grant request form may receive is:

$$Gr = \frac{.1(A)}{\text{Total eligible LEPCs}} + .2(A)\ \frac{Qc}{Ts} + .2(A)\ Tc$$

(4) All grant awards shall be based upon the amount of money requested by the eligible local emergency planning committee and the formula shown in this section.

Section 2. Notice of Amount of Availability of Funds to Each Local Emergency Planning Committee. (1) No later than April 1 each year the Kentucky Emergency Response Commission shall notify the local emergency planning committees how much money will be available to each eligible local emergency planning committee which submits a grant request form. This amount shall be based upon the total amount of funds available in the Kentucky Emergency Response Commission fee account divided pursuant to Section 1 of this regulation.

(2) Notification of money available shall not

be construed as an automatic grant award to a local emergency planning committee. Each local emergency planning committee who wants an award shall submit a grant request form in accordance with 106 KAR 1:090.

Section 3. State Agency Grant Distribution. No more than fifty (50) percent of funds collected annually by KRS 39.817 shall be allocated by the Kentucky Emergency Response Commission to state agencies other than local emergency planning committees which submit grant requests for administration, development and implementation of the Kentucky Emergency Planning and Community Right-to-Know program, known as SARA Title III, within the guidelines mandated by PL 99-499, Title III, KRS 39.800 to 39.990 and subsequent administrative regulations.

Section 4. Availability of Additional Funds. The Kentucky Emergency Response Commission may set a date and notify all local emergency planning committees and state agencies of the availability of additional funds collected after April 1 or which were returned to the commission during the year. Any additional funds shall be distributed in accordance with Sections 1(1) and 3 of this regulation.

Section 5. Administrative support required by KRS 39.817 shall be provided by the Division of Disaster and Emergency Services.

This is to certify that the Kentucky Emergency Response Commission has recommended that this administrative regulation be adopted.

JAMES H. MOLLOY, Chairman
Kentucky Emergency Response Commission

MICHAEL W. DAVIDSON, Brigadier General
APPROVED BY AGENCY: April 10; 1991
FILED WITH LRC: April 11, 1991 at 1 p.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on May 22, 1991, 9 a.m. at Boone National Guard Center, EOC Building Conference Room. Individuals interested in being heard at this hearing shall notify this agency in writing by May 17, 1991, 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 the contact person: James H. Molloy, Chairman, Boone National Guard Center, Frankfort, KY 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roger Green
(1) Type and number of entities affected: The commission will utilize this distribution formula to make grant awards. The 120 local emergency planning committees (LEPCs) will receive funding based on this distribution formula.
(a) Direct and indirect costs or savings to those affected: Direct costs will accrue to the commission as dedicated staff performs the administrative tasks required, such as collecting fees, estimating funds available locally, notifying LEPCs of amount estimates, and managing the actual allocation process.
1. First year: Direct costs will be incurred by the commission for the tasks listed in (1)(a).
2. Continuing costs or savings: Direct costs will be incurred by the commission for the tasks listed in (1)(a).
3. Additional factors increasing or decreasing costs (note any effects upon competition): No known additional factors will affect costs.
(b) Reporting and paperwork requirements: Commission staff will process the paperwork/forms associated with the grant application process.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: Direct costs for staff and resources to provide administrative tasks will occur.
1. First year: Direct costs for staff and resources to provide administrative tasks will occur.
2. Continuing costs or savings: Direct costs for staff and resources to provide administrative tasks will occur.
3. Additional factors increasing or decreasing costs: No known additional factors will affect costs.
(b) Reporting and paperwork requirements: Staff will process the required paperwork/forms to administer the grant process.
(3) Assessment of anticipated effect on state and local revenues: This regulation has no affect on state and local revenues.
(4) Assessment of alternative methods; reasons why alternatives were rejected: Alternative methods were not considered as the commission was compelled to provide a formula for grant distribution.
(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: 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. Tiering was applied in the application to differentiate within the formula those LEPCs whose jurisdictions contain extremely hazardous substance users and those with a greater number of fee-generating facility reports.

DEPARTMENT FOR MILITARY AFFAIRS
Division of Disaster and Emergency Services

106 KAR 1:130. Kentucky emergency response commission civil penalty assessment and hearings procedure.

RELATES TO: KRS 39.800 to 39.990
STATUTORY AUTHORITY: KRS 39.990
NECESSITY AND FUNCTION: This regulation establishes procedures to be followed to assess

civil penalties by the Kentucky Emergency Response Commission as provided for in KRS 39.990.

Section 1. General Provisions. (1) Administrative action will be initiated when the commission has notice of a violation, the commission chairman (or his designee) shall mail to the alleged violator a writing styled "NOTICE OF VIOLATION", which shall contain the specific date, time and place for the assessment hearing, the specific provisions of KRS 39.800 to 39.905 or the commission's administrative regulations that were allegedly violated, and shall advise the alleged violator that he may be represented by an attorney at the hearing.

(2) The hearing shall be held in Frankfort, Kentucky.

(3) All documents filed by any party shall be served by mail, upon all other parties.

Section 2. Assessment Hearing. When a notice of violation has been issued, an administrative hearing shall be held to determine if a violation of the provisions of KRS 39.800 to 39.905 or the commission's administrative regulations have been committed and to determine the amount of the civil fine to be imposed.

Section 3. Designation of a Hearing Officer. The full commission shall designate a hearing officer who shall be a person trained in the law who will serve for the duration of the hearing.

Section 4. Parties. The parties to the proceeding shall be the hearing officer, the commission chairman (or his designee) and the alleged violator who shall be designated respondent, and in any action under this section, any person may intervene when such person has a direct interest which is or may be adversely affected by the action and the disposition of the the action may, as a practical matter, impair or impede the person's ability to protect that interest unless the hearing officer or commission chairman (or his designee) determines the person's interest is adequately represented by existing parties in the action.

Section 5. Continuances. (1) Any party may request a continuance of a scheduled hearing for good cause. The request shall be in writing and include the reason for the request. The request shall be submitted to the commission chairman (or his designee) at least ten (10) days prior to the hearing date.

(2) Any party objecting to a requested continuance may file a written objection to the commission chairman (or his designee) at least five (5) days prior to the scheduled hearing.

(3) The hearing officer shall rule on all requests for a continuance. In the hearing officer's absence, the commission chairman (or his designee) shall rule on such requests. The commission chairman (or his designee) shall execute and transmit an order either granting or denying the continuance to all parties involved.

Section 6. Conduct of Hearing. (1) The designated hearing officer shall conduct the hearing at the date, time and place set out in the notice of violation.

(2) The hearing officer shall be empowered to rule on all questions of law and procedure as well as the appropriate weight to be given to specific testimony or evidence.

(3) The formal rules of civil procedure do not apply.

(4) The hearing officer shall require an orderly hearing with proper decorum and shall be empowered to issue orders compelling discovery, the attendance of witnesses and the production of documents for the purposes of conducting the hearing.

(5) The proceedings and evidence shall be recorded.

Section 7. Exemptions. Any party seeking an exemption or relief from the payment of a fine shall have the burden of persuasion to establish that he qualifies for the exemption.

Section 8. Burden of Proof. The commission chairman (or his designee) shall have the burden of persuasion in establishing a prima facie case. When a prima facie case has been presented to the satisfaction of the hearing officer, the burden of persuasion shall shift to the respondent who shall have the burden of persuasion to rebut the prima facie case.

Section 9. Findings of Fact, Conclusions of Law, and Recommended Order. The hearing officer shall make findings of fact, conclusions of law and recommended order for review and approval by the full commission with service on all parties. Any party may take exception in writing within seven (7) days of receipt of the hearing officer's recommended order. Thereafter, the commission may elect to approve the findings of fact, conclusions of law and recommended order or it may modify the recommended order subject to the requirements of KRS Chapter 39.

Section 10. Service shall be made by mailing the alleged violator the notice of violation to the address shown on the annual inventory reporting forms required to be filed by KRS Chapter 39.

This is to certify that the Kentucky Emergency Response Commission has recommended that this administrative regulation be adopted.

JAMES H. MOLLOY, Chairman
Kentucky Emergency Response Commission

MICHAEL W. DAVIDSON, Brigadier General
APPROVED BY AGENCY: April 10, 1991
FILED WITH LRC: April 11, 1991 at 1 p.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on May 22, 1991, 9 a.m. at Boone National Guard Center, EOC Building Conference Room. Individuals interested in being heard at this hearing shall notify this agency in writing by May 17, 1991, 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 the contact person: James H. Molloy, Chairman, Boone National Guard Center, Frankfort, KY 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roger Green
(1) Type and number of entities affected: This regulation applies to the owners/operators of all facilities required to report under auspices of the SARA, Title III Act. These facilities are those using, storing, or manufacturing hazardous chemicals in excess of certain amounts.
(a) Direct and indirect costs or savings to those affected: A direct cost to those cited for an alleged violation will include the legal and administrative fees necessary to prepare a proper response. Also, a fine may be assessed for those found to be in violation.
1. First year: Costs will occur as each alleged violation is identified.
2. Continuing costs or savings: Costs will occur as each alleged violation is identified.
3. Additional factors increasing or decreasing costs (note any effects upon competition): No additional factors have been identified which may increase or decrease costs.
(b) Reporting and paperwork requirements: Paperwork will be required as part of the overall hearing procedures process.
(2) Effects on the promulgating administrative body: The promulgator will administratively support the process through which the commission reviews and examines each case.
(a) Direct and indirect costs or savings: Indirect costs for this administrative function will accrue.
1. First year: Indirect costs will occur as each violation is identified and the hearing process undertaken.
2. Continuing costs or savings: Indirect costs will occur as each violation is identified and the hearing process undertaken.
3. Additional factors increasing or decreasing costs: No additional factors have been identified which may increase or decrease costs.
(b) Reporting and paperwork requirements: The paperwork necessary to support the process will be completed.
(3) Assessment of anticipated effect on state and local revenues: Fines assessed against a violator will increase state revenue.
(4) Assessment of alternative methods; reasons why alternatives were rejected: The statutes provide an alternative to this civil hearing procedure. KRS 39.900 provides criminal penalties for violators.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no conflicting statutes or regulations.
(a) Necessity of proposed regulation if in conflict: Not applicable.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. Tiering was not applied as the process must apply to alleged violators in an equal manner.

FINANCE AND ADMINISTRATION CABINET
Kentucky Infrastructure Authority

200 KAR 17:020. Guidelines for solid waste revolving fund and solid waste grant program.

RELATES TO: KRS Chapter 224A
STATUTORY AUTHORITY: KRS 224A.011, 224A.040, 224A.070, 224A.113, 224A.164, 224A.270, 224A.280
NECESSITY AND FUNCTION: KRS 224A.070(1) and 224A.113 authorize the Kentucky Infrastructure Authority to promulgate regulations in accordance with KRS Chapter 13A, to govern the application for and provision of financial assistance from the solid waste revolving fund and the solid waste grant program to governmental agencies for the construction or acquisition of solid waste projects. It is the intent of the Kentucky Infrastructure Authority to implement a joint application and funding process for loans to be made from the solid waste revolving fund and grants to be made from the solid waste grant program. The solid waste grant program shall be used to lower renovation or acquisition of solid waste facilities to be owned by low income communities.

Section 1. Definitions. For the purposes of this regulation the words and terms shall have the same meaning as in KRS 224A.011, with the following additions:
(1) "Applicant" shall mean, as applicable, a governmental agency that has submitted an application for financial assistance from the solid waste revolving fund or any county, waste management district, city, urban-county government, area development district or other political subdivision of the Commonwealth which has submitted an application for financial assistance from the solid waste grant program, including any agency or instrumentality of the foregoing.
(2) "Application" shall mean an application submitted by an applicant for a loan from the solid waste revolving fund and/or a grant from the solid waste grant program.
(3) "Application period" shall mean a period of time announced by the authority for review of applications which shall occur at least once each year that funds are available.
(4) "Authority staff" means the Office for Financial Management and Economic Analysis.
(5) "Cabinet" shall mean the Kentucky Natural Resources and Environmental Protection Cabinet.
(6) "Conditional commitment letter" shall mean a letter delivered to an applicant by the authority stating the authority's commitment to provide financial assistance, which commitment may require that certain conditions be met by the applicant by a specific date.
(7) "Closing date" shall mean the date on which a project is substantially complete, with all amendments to the assistance agreement having been executed.
(8) "Hardship" shall mean one (1) or more of the following factors that exist which prohibit the applicant from complying with the mandates of the solid waste management plan:
(a) Need for financial assistance;
(b) Access to marketing;
(c) Status of economic development;
(d) Level of unemployment;
(e) Repercussions from natural disasters;
(f) Availability of transportation infrastructure; and

(g) Other factors may be considered if sufficient documentation is proved by the applicant.

(9) "Index rate" shall mean the average of the Bond Buyer's Index of twenty (20) G.O. Bonds as published weekly in the Bond Buyer (a financial newspaper circulated in New York) calculated based on the weeks following within each calendar quarter. This average shall be rounded to the nearest one-tenth (.1) of one (1) percent.

(10) "Interest rate" shall mean the rate of interest charged an applicant for financial assistance from the solid waste revolving fund.

(11) "Preclosing date" shall mean the date of execution of an assistance agreement with an applicant who has met the conditions of the conditional commitment letter, and shall be the first date release of funds is permitted under the terms of the financial assistance provided.

(12) "Project" shall mean for purposes of the solid waste revolving fund the construction, renovation or acquisition of a solid waste facility (as defined in KRS 224A.011(25)), and shall mean for purposes of the solid waste grant program, the foregoing as well as the promotion of recycling, universal collection, and other similar solid waste management activities.

(13) "State clearinghouse review" shall mean a review conducted within the department of local government pursuant to federal or state law or regulations.

(14) "Local contribution" shall mean that portion of the applicant's share of funding a project which enables an applicant to be eligible for financial assistance from the solid waste grant program and which is derived solely from available funds of the applicant not representing loan grants from federal or state agencies.

(15) "Extreme health hazard" shall mean such documented existing conditions concerning the storage, treatment, transportation, disposal or other management of solid waste which significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating irreversible illness or which otherwise, if left unattended, pose a substantial present or potential hazard to human health or safety within the applicant's service area.

(16) "Service area" shall mean the area designated for solid waste disposal service in the solid waste plan.

(17) "Solid waste revolving fund" shall mean the solid waste revolving fund established by KRS 224A.270.

(18) "Solid waste grant program" shall mean the solid waste grant program established by KRS 224A.280.

(19) "Special depreciation fund" shall mean the special depreciation fund required to be established by an applicant by Section 8 of this regulation in connection with a loan from the solid waste revolving fund.

Section 2. General Eligibility Requirements and Conditions to Financial Assistance. (1) Applications shall be submitted only by applicants for projects.

(2) Each applicant shall have the legal authority to construct or acquire, operate and maintain the project for which financial assistance is sought from the authority and if the application is for funding under the solid waste revolving fund, the applicant shall have the legal authority to incur a pledge to repay any loan assistance provided by the authority.

(3) If applying for a loan from the solid waste revolving fund, the applicant shall participate in or implement a universal collection program. If the applicant is applying for a grant under the solid waste grant program, the grant shall be contingent upon the adoption of an approved universal collection program.

(4) Unless otherwise exempted by KRS Chapter 224A, the solid waste system of which the applicant's project is to be a part, shall provide solid waste collection services to at least a county-wide area.

(5) The applicant shall have access to a solid waste disposal facility which has all necessary operating permits, or is expected to have all necessary permits upon completion of the project, and which has adequate projected capacity and resources to provide disposal services through the final maturity date of the proposed loan or the termination date of the assistance agreement relating to any grant.

(6) The applicant shall retain ownership of the project until the final repayment of any authority loans.

(7) The applicant shall, upon completion of the proposed project, be in compliance with all state or federal laws or regulations with regard to financial accountability, personnel management, and solid waste management activities and shall certify such compliance to the authority and the cabinet.

(8) The applicant shall implement and maintain a system for collection of a service fee, dedicated tax or appropriation, which shall be used to support the funded project.

(9) The applicant shall have an approved solid waste management plan.

(10) Other eligibility requirements or conditions to financial assistance that may be established and announced as authority policy or that may be included in the assistance agreement or conditional commitment letter.

Section 3. Additional Eligibility Requirements for a Grant From the Solid Waste Grant Program. (1) Only those applicants whose projects meet each of the following requirements shall be eligible for a grant from the solid waste grant program:

(a) A hardship shall exist.

(b) An extreme health hazard shall exist.

(2) No more than seventy-five (75) percent of the cost of a project may be funded by the solid waste grant program.

(3) Each applicant shall provide other funding equal to at least twenty-five (25) percent of the cost of the project, which may consist of the local contribution, or may consist of funds derived from:

(a) An authority loan or other loan;

(b) A grant from other sources; or

(c) The provision of services or property in kind, if the value of such services or property can be documented to the authority's satisfaction.

(4) In order to qualify for a rebate under KRS _____, a county which is an applicant shall document, to the satisfaction of the cabinet, the scheduled cleanup of all illegal open dump sites located within its jurisdiction, including all costs incurred, in accordance with the requirements of KRS 224.888(1)(g)4 and the cabinet shall certify to the authority when

successful cleanup is complete. Costs incurred in the cleanup shall be fully documented and reviewed by the cabinet. The amount to be rebated shall be limited to the lesser of the costs incurred for the cleanup or the local contribution to the project. The authority may reserve grant funds for the purpose of rebate, if the required amount can be reasonably estimated.

(5) If applications for grants exceed the available funds in the solid waste grant program for the highest priority projects, a loan from the solid waste revolving fund may be offered as a substitute source of project funding if the applicant meets the requirements for a loan established by Section 2 of this regulation.

Section 4. Solid Waste Revolving Fund and Solid Waste Grant Program Limitations and Terms. (1) Grants shall not exceed $50,000 per county during any application period.

(2) Loans shall not exceed $200,000 per county during any application period.

(3) Interest shall be paid at an annual rate equal to the index rate less two (2) percent or such other rate as may be established by the authority for a calendar quarter, calculated on the actual funds received by the applicant.

(4) Interest shall be payable to the authority at such times as shall be established in the assistance agreement.

(5) Principal shall be paid at such times as shall be established in the assistance agreement, provided that the total term of principal repayment shall not exceed the lesser of thirty (30) years of the useful life of the project.

Section 5. Application Submission Requirements and Review Process. (1) The application form, substantially as in effect on April 15, 1991, which is incorporated by the reference and is made a part hereof as if fully set forth herein, may be obtained from the Division of Waste Management, Natural Resources and Environmental Protection Cabinet, 18 Reilly Road, Frankfort, Kentucky 40601.

(2) One (1) original application and four (4) copies shall be submitted to the Division of Waste Management on the date set for submission of applications during an application period, with summary copies submitted for state clearinghouse review.

(3) A single application form shall be used for a loan from the solid waste revolving fund, a grant from the solid waste grant program or a combination of the two (2).

(4) An applicant shall submit or be a part of only one (1) application per application period.

(5) Applications may be withdrawn at any time, and applications for unfunded projects may be resubmitted during the next application period.

(6) The cabinet shall review and prioritize applications during the first sixty (60) days of the application period, which review period may be extended by an additional thirty (30) days if additional application information is needed. State clearinghouse review may run concurrently with cabinet review. The authority shall review applications for credit quality and financial feasibility in the order or priority determined by the cabinet during the sixty (60) day period after prioritization is completed by the cabinet, which review may be extended by thirty (30) days if additional information is needed.

Section 6. Criteria for Prioritizing Project Applications. (1) The cabinet shall prioritize all applications received in an application period using a scoring system which measures the degree to which the proposed project satisfies each criteria.

(2) The criteria used by the cabinet to prioritize project applications shall be as follows:

(a) The extent to which the project shall promote waste reduction and recycling efforts, prevention of illegal open dumps, or shall provide convenient and accessible solid waste collection methods.

(b) The extent to which the project shall comply with goals and objectives of the approved solid waste management plan for the applicable solid waste management area.

(c) The extent to which the project shall satisfy the identified solid waste management needs of the service area and the Commonwealth.

(d) The extent to which the project shall serve the service area geographically and by population in the most effective and efficient manner.

(e) Whether the proposed project cost estimates are reasonable and attainable given the geographic location of the project, current pricing trends, required professional services, and any other factors that may have a bearing on the project.

(f) The extent to which the project design shall achieve the proposed service level.

(g) Whether the applicant can assure continued operation and maintenance of the project.

(h) Whether the proposed source of revenue from the project shall be sufficient to operate the project and to repay any debt financing associated with the project.

(i) The degree to which the applicant has enforced KRS Chapters 47, 48, 49, 224 and 401.

(j) Whether the application is properly completed and accurate.

(k) Whether the service is needed and otherwise unavailable within the proposed service area.

(l) Whether the project promotes any additional policies of the authority or the cabinet.

(3) The cabinet, after reviewing all eligible applications using the above criteria, shall submit a list of all projects recommended for funding in priority order to the authority staff, with all application information attached.

Section 7. Financial/Credit Review. (1) Authority staff shall review applications to determine those projects that are financially feasible and credit worthy for a loan from the solid waste revolving fund. For project applications requesting only a grant under the solid waste grant program, only the financial feasibility of the continued operation and maintenance of the project shall be reviewed.

(2) The financial review shall consider, among other things, the following:

(a) Adequacy and quality of the type of revenues pledged for repayment of the proposed loan, the funding of the local portion of a project financed with a grant and the operation and maintenance costs of the project.

(b) Validity of the assumptions used to project any revenues to be used to fund the project or the repayment of indebtedness incurred with respect to the project.

(c) Assurance that revenues to be used to fund the project or to repay indebtedness incurred with respect to the project shall be collected.
(d) Security of all other sources proposed to fund the project costs.
(e) Credit history of the applicant and compliance with existing debt covenants.
(f) Reasonableness of projections for operation and maintenance costs of the applicant's solid waste system.
(g) Any legal restrictions on:
1. The applicant;
2. The ability of the authority to fund the type of project proposed;
3. The applicant's ability to pledge the proposed revenues for repayment of an authority loan; or
4. The operation and maintenance of the project.
(h) If the project is to be operated, maintained or managed by a third party, the review of the audited financial information regarding the third party.
(3) Authority staff shall determine which applicants satisfy the above review, and shall make funding recommendations to the authority for all applications within the available funding limits of the solid waste revolving fund and solid waste grant program. Authority staff shall report any proposed substitutions of loans for grants requested, given limitations on available funds.

Section 8. Funding Process. (1) The authority shall consider the recommendations of the authority staff and the cabinet, and shall make the selection of those projects which are to be funded and shall establish a priority list for approval of additional applications if adequate funds are not available to fund all projects determined to be eligible. For properties of equal priority under Section 6 of this regulation, the decision rests with the governing body of the authority.
(2) For the projects approved, a conditional commitment letter shall be sent to the applicant stating the type, terms and conditions of the project funding approved.
(3) The applicant shall be granted thirty (30) days to sign and return the conditional commitment letter indicating acceptance of the terms and conditions of the assistance offered, unless an extension for good cause is granted by the authority. Failure to respond shall result in forfeiture of the funds offered, and such funds shall then be made available to other applicants in the order of priority established by the authority.
(4) Upon completion of all conditions of the conditional commitment letter, the applicant shall execute an assistance agreement establishing the terms and conditions of the loan or grant. Execution of the assistance agreement shall generally coincide with award of construction or acquisition contracts for the project. No monies shall be released to the applicant until the assistance agreement has been executed.
(5) Upon determination of the actual bid cost of a project, the funding awarded by the authority may, at staff discretion, without further action of the authority, be increased by up to ten (10) percent of the proposed funding contained in the conditional commitment letter. Ten (10) percent of the funds committed from both the solid waste revolving fund and the solid waste grant program shall be reserved for this purpose, until assistance agreements for the funded projects are executed.
(6) Unless otherwise agreed to by the authority staff, funds shall be released to the applicant no more than once each month, for actual project costs incurred. A completed request for payment with adequate supporting documentation shall be submitted to the cabinet for review and approval. The cabinet shall forward the request and their written recommendation for payment to the authority.
(7) Upon substantial completion of the project and determination of the exact completion costs, a supplemental assistance agreement, including any necessary amendments and adjustment of the funding amounts and a final repayment schedule shall be executed, if any amendments or adjustments are necessary.
(8) To assure adequate funds for major maintenance and replacement of the project funded through the solid waste revolving fund, the applicant shall be required to set aside semiannually from current revenues, into a special depreciation fund, an amount which shall be determined by the authority and set forth in the assistance agreement. Monies may be withdrawn from the fund when major maintenance or replacement of equipment in excess of budgeted amounts is required. Applicants who receive a grant from the authority shall be required to set aside funds for major maintenance and replacement of the project in an amount determined by the authority and set forth in the assistance agreement.

Section 9. Loan and Grant Closing and Extensions. An applicant shall meet all conditions for loan and grant closing and take bids for the project within eleven (11) calendar months after the date of the conditional commitment letter, otherwise, the loan or grant commitment shall expire. One (1) extension of up to six (6) months may be granted upon a determination by the authority staff that circumstances so warrant. If the extension is denied, the loan or grant offer shall be rescinded. If a request for a time extension is granted, but all the conditions still cannot be met during the extension period, the loan or grant commitment shall be rescinded. The applicant may reapply for any project for which the loan or grant commitment has expired or has been rescinded under this section.

Section 10. Authority to Administer the Program. The authority shall monitor the assistance agreement and require that financial reports be made available to the authority by the applicant at such intervals deemed necessary by the authority. The cabinet shall monitor the project and perform all actions that may be required to assure that the agreements continuously meet the program standards established by these regulations. There shall be an annual administrative fee of two-tenths (.2) of one (1) percent charged on the unpaid balance of all loans.

L. ROGERS WELLS, JR., Secretary
APPROVED BY AGENCY: April 15, 1991
FILED WITH LRC: April 15, 1991 at noon
PUBLIC HEARING: A public hearing on the administrative regulation shall be held on May

21, 1991, at 10 a.m., in Room 285, Capitol Annex Building, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify the commission in writing by May 16, 1991, five days prior to the hearing of their interest to attend the hearing. If no notification of intent to attend this hearing is received by that date, the hearing may be cancelled. The hearing is open to the public. Any person that 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 at cost to the requesting party. If you do not wish to attend the public hearing, you may submit written comments on the proposed regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Marilyn Eaton, Kentucky Infrastructure Authority, Room 075, Capitol Annex Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Marilyn Eaton

(1) Type and number of entities affected: The regulation affects the Kentucky Infrastructure Authority and the Natural Resources and Environmental Protection Cabinet, as well as governmental agencies of the Commonwealth who are eligible to apply for financial assistance for the construction or acquisition of infrastructure projects from the solid waste revolving loan and grant programs.

(a) Direct and indirect costs or savings to those affected: The Division of Waste Management will hire three additional staff members. The Kentucky Infrastructure Authority has hired one additional staff member that will devote 50% of their time towards the solid waste program.

1. First year: Direct cost: Kentucky Infrastructure Authority - $16,909; Division of Waste Management - $97,017. Indirect costs: Kentucky Infrastructure Authority - $5,918; Division of Waste Management - $37,229. Computer Equipment: Kentucky Infrastructure Authority - $2,000; Division of Waste Management - $10,500.

2. Continuing costs or savings: Same as (a)1 except for computer equipment.

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

(b) Reporting and paperwork requirements: A governmental agency will have to apply to Division of Waste Management, Natural Resources and Environmental Protection Cabinet, to seek permission to obtain financial assistance for construction or acquisition of a solid waste project. There appears to be no additional paperwork or reporting requirements except for the fact that the Kentucky Infrastructure Authority will be required to make an annual report on the program. This report will include financial information and will be incorporated into the Kentucky Infrastructure Authority annual audit.

(2) Effects on the promulgating administrative body: There will be additional costs imposed upon the promulgating administrative body. These costs include direct and indirect costs of an additional Kentucky Infrastructure Authority staff member that will devote 50% of their time towards the solid waste program. The Division of Waste Management, under this regulation, reviews applications for solid waste loan and/or grant funds. After approval from the department, the application is then sent to the Kentucky Infrastructure Authority for financial analysis.

(a) Direct and indirect costs or savings: The Kentucky Infrastructure Authority has hired one additional staff member that will devote 50% of their time towards the solid waste program.

1. First year: Costs to Kentucky Infrastructure Authority: Direct - $16,909; Indirect - $5,918; Computer Equipment - $2,000.

2. Continuing costs or savings: Same as (a)1 except for computer equipment.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: The Kentucky Infrastructure Authority and the Division of Waste Management will keep records.

(3) Assessment of anticipated effect on state and local revenues: There appears to be no anticipated effect on any state or local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Pursuant to KRS 224.070(1) and 224A.113, the Secretary of the Finance and Administration Cabinet, as the Chairman of the Kentucky Infrastructure Authority, shall promulgate regulations to govern the application for and provision of financial assistance to governmental agencies for the construction or acquisition of infrastructure projects from the infrastructure revolving fund. Pursuant to this regulation, the Secretary of the Finance and Administrative Cabinet is establishing guidelines for distribution of monies from the infrastructure revolving fund. There are no other alternative methods by which the allocation can be established.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no other statute or administrative regulation which conflicts, overlaps, or duplicates the proposed administrative regulation. Pursuant to KRS Chapter 224A, the Secretary of Finance and Administration is required to promulgate the regulation on behalf of the Kentucky Infrastructure Authority.

(a) Necessity of proposed regulation if in conflict: There is no statute, regulation, or government policy in conflict with the proposed administrative regulations.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no statute, regulation, or government policy in conflict with the proposed administrative regulation.

(6) Any additional information or comments: The purpose of this administrative regulation is to prescribed guidelines for the application of financial assistance to governmental agencies for construction and acquisition of infrastructure projects for the solid waste revolving loan and grant program.

TIERING: Was tiering applied? No. Tiering was not applied because distribution of public funds requires that all applicants meet the same eligibility requirements to ensure equal treatment for public funds. Furthermore, local governments must also meet the same eligibility requirements for infrastructure projects, i.e., solid waste projects, drinking water projects, and wastewater projects.

FINANCE AND ADMINISTRATION CABINET
Kentucky Infrastructure Authority

200 KAR 17:030. Guidelines for drinking water loan fund.

RELATES TO: KRS Chapter 224
STATUTORY AUTHORITY: KRS Chapter 13A, 224A.070(1), 224A.113
NECESSITY AND FUNCTION: KRS 224A.070(1) and 224A.113 authorize the Kentucky Infrastructure Authority to promulgate regulations in accordance with KRS Chapter 13A, to govern the application for and provision of financial assistance to governmental agencies for the construction or acquisition of drinking water projects from the drinking water loan fund.

Section 1. Definitions. For the purposes of this regulation the words and terms used shall have the same meaning as in KRS 224A.011, with the following additions:
(1) "Applicant" shall mean any governmental agency that has submitted an application to the authority for a loan from the drinking water loan fund.
(2) "Application" shall mean the application submitted by an applicant for a loan from the drinking water loan fund.
(3) "State clearinghouse review" shall mean a review conducted within the Department of Local Government pursuant to federal or state law or regulations.
(4) "Authority staff" shall mean the Office of Financial Management and Economic Analysis.
(5) "Conditional commitment letter" shall mean a letter delivered to the applicant issuing the authority's commitment to provide a loan under specific terms and subject to the satisfaction of certain conditions by the applicant on or before the closing date.
(6) "Drinking water project" shall mean the acquisition, rehabilitation or construction of water treatment works, water distribution facilities, or water resources projects instituted by a governmental agency which is approved by the authority or, if required, by the Natural Resources and Environmental Protection Cabinet, Public Service Commission or other agency; or any other public water utility or public water service project.
(7) "Department" shall mean the Department of Local Government.
(8) "Closing date" shall mean the date established by the authority for execution of the assistance agreement upon satisfaction of the conditions contained in the conditional commitment letter.
(9) "Drinking water loan fund" shall mean the drinking water loan fund established pursuant to KRS Chapter 224A.
(10) "Capital investment plan" shall mean the plan developed by the applicant for investment in capital projects as required by KRS 224A.112(6)(b).
(11) "Index rate" shall mean the average of the Bond Buyer's Index of twenty (20) G.O. Bonds as published weekly in the Bond Buyer (a financial newspaper published in New York) calculated based on the weeks falling within each calendar quarter. This average shall be rounded the nearest one-tenth (.1) of one (1) percent.
(12) "Special depreciation fund" shall mean the special depreciation fund required to be established by an applicant by Section 6 of this regulation in connection with a loan from the drinking water loan program.

Section 2. General Eligibility Requirements and Conditions to Financial Assistance. (1) Applications shall only be submitted by applicants for drinking water projects located in the Big Sandy, Cumberland Valley, Kentucky River, or Gateway Area Development Districts.
(2) Only applicants that certify in writing that they are unable to finance an entire drinking water project from their own resources shall be eligible for a loan. Documentation evidencing such inability shall include the following:
(a) Letters from local lending institutions.
(b) Letters from financial advisors, accountants or fiscal agents, if applicable.
(c) If the applicant is in an area which qualifies for assistance through the Farmer's Home Administration, (FmHA), a statement stating either:
1. The applicant will not qualify for funding;
2. The applicant has previously applied for FmHA funding and has failed to receive assistance in two (2) consecutive attempts; or
3. The applicant needs to supplement the FmHA funds with drinking water loan funds.
(d) Statements from any other sources or other certifications having a bearing on the application which the authority in its discretion deems relevant for purposes of making the determination that an applicant is unable to finance the entire drinking water project from its own resources.
(3) Each applicant shall have or shall attain the legal authority necessary for constructing, operating and maintaining the proposed drinking water project.

Section 3. Eligible Drinking Water Projects. Monies in the drinking water loan fund shall be used for drinking water projects which will enhance the health, safety and welfare, and encourage economic development opportunities in local communities as determined by the authority based upon each application.

Section 4. Submission Requirements and Review Process. (1) The original and two (2) copies of each application shall be submitted to: Department of Local Government, Capital Plaza Tower, 2nd Floor, Frankfort, Kentucky 40601, Attention: Director, Division of Community Programs.
(2) The application form, substantially in the form as in effect on April 15, 1991, which is incorporated by reference and is made a part hereof as if fully set forth herein, may be obtained at the Department of Local Government from 8 a.m. to 4:30 p.m., Monday through Friday. Only a completed application, including all supporting documentation, shall be submitted before an application will be considered for assistance from the drinking water loan fund.
(3) Applications shall be subject to Kentucky state clearinghouse review, and shall be reviewed by the Department of Local Government, and shall be subject to authority credit review. Extensions of any review periods that are established may be necessary if the applicable reviewing agency determines that additional time is required for a more thorough review, or if any such agency determines that additional

information or clarification is required to complete review of the application. Applicants may supplement their applications during the review process to:

(a) Clarify or explain the drinking water project scope;

(b) To provide additional information or clarification concerning the funds pledged as repayment of the loan; or

(c) To make adjustments in the application to enhance the programmatic or financial feasibility of the drinking water project.

Section 5. Criteria for Selecting Eligible Drinking Water Projects. (1) The Department of Local Government shall select and determine eligible drinking water projects for loans. The department shall take into consideration the following:

(a) Unemployment data, which shall be specific to the county or counties from which the application originates and shall reflect the most recent figures available from each county.

(b) The extent to which the drinking water project fits into the economic development strategy of the community. A drinking water project which relates to economic development is one that stimulates the potential for economic growth. A drinking water project shall be considered based on the degree to which it enhances economic development efforts and its level of priority in the community's capital investment plan.

(c) The extent of the need for the drinking water project and the impact which the drinking water project will have on the local economic development efforts.

(d) Whether the proposed costs of completing the drinking water project are reasonable given the geographic location of the drinking water project, current pricing trends, required professional services, and any other factors that may have a bearing on the drinking water project. Cost figures submitted in the application will be reviewed to determine whether the proposed budget is sound. Any costs considered questionable will be analyzed to determine whether the integrity of the drinking water project is suspect.

(e) Whether, based upon the department's evaluation of the overall drinking water project effectiveness, the most beneficial drinking water project has been designed for the use of the drinking water loan fund.

(2) The department shall review applications and assign a priority ranking based on the selection criteria. Drinking water projects shall be ranked as Priority I, Priority II, or Priority III.

(a) A Priority I ranking shall be assigned when, having considered all of the criteria, the drinking water project will have a significant economic impact on the community; is well designed; cost effective; and, generally, determined by the department to be the most suitable solution to the community's needs.

(b) Priority II shall be assigned when one (1) or more factors exist which would limit the success or feasibility of the drinking water project.

(c) Priority III shall be assigned when, having considered all the criteria, the department finds that the drinking water project is premature, is not feasible, or is inappropriate for assistance from the drinking water loan fund.

(d) The department shall recommend Priority I rankings to the authority's staff for financial review.

(3) Authority staff shall conduct a financial review of the Priority I designated drinking water project applications.

(a) The financial review shall include an analysis of:

1. The adequacy and quality of the revenues pledged for the repayment of the loan;

2. The validity of the assumptions used to project new revenues resulting from the drinking water project;

3. Whether monies other than the drinking water loan have been committed and shall be available to fund the cost of the drinking water project;

4. The ability of the applicant to provide for maintenance and operations cost of the drinking water project and related public service system;

5. The ability of the applicant to service existing debt of the system related to the drinking water project;

6. The nature of any funds pledged or committed by entities, other than the applicant, to repay the drinking water loan; and

7. The ability of the authority to finance the applicant's drinking water project using the financing programs permitted by Kentucky and federal laws or regulations.

(b) At any time during the financial analysis, an application may be notified of a deficiency. If the problem cannot be resolved through negotiation, the authority may remove the application from consideration.

Section 6. Loan Process. (1) Upon completion of the credit review by the authority's staff, the application shall be submitted to the authority for final action.

(2) If the authority approves the application, a conditional commitment letter shall be issued to the applicant. This letter shall set forth the conditions and documentation required by the authority prior to execution of an assistance agreement. No funds shall be provided until the assistance agreement is fully executed. The commitment shall be made upon the authority's satisfaction that the drinking water project proposed is financially feasible, the applicant is credit worthy and that the drinking water project will comply with all technical and program requirements set forth in state and federal laws and regulations.

(3) The authority shall establish the interest rate quarterly based on prevailing market conditions. The rate of interest on each loan shall be set forth in the conditional commitment letter. There shall be one (1) rate of interest offered which will be the index rate less four (4) percent. If the nature of a drinking water project financed by the authority's loan causes interest on any authority bonds issued to fund the drinking water project to become taxable, the authority may consider adjustments in the interest rate to reflect the additional costs of authority funds.

(4) Loan repayments shall not exceed thirty (30) years. Loan repayments shall commence within six (6) months after the start of construction, unless repayment is dependent on revenues generated from the specific drinking water project. In such cases, loan repayment shall begin within six (6) months after the

drinking water project is operational, and interest to cover the authority's cost of money during the construction period may be added to the amount of the loan.

(5) The principal amount of each loan shall be equal to the amount approved by the authority. The final loan amount may be adjusted by up to ten (10) percent of the commitment without further action by the authority, subject to availability of funds to service the debt.

(6) Upon certification by the drinking water project engineer of construction of the drinking water project as eighty (80) percent complete, and submission by the applicant of evidence of the exact cost of the drinking water project, an inspection shall be conducted by the authority staff to provide for any adjustments in the loan amount.

(7) To assure adequate funds for major maintenance and replacement of the drinking water projects funded by this program, the applicant shall be required to set aside annually, to a special depreciation fund, from current revenues, after taking into account costs of operations and maintenance and debt service requirements, an amount to be determined by the authority. Monies may be withdrawn from the account when major maintenance or replacements of equipment in excess of budgeted amounts are required.

(8) The assistance agreement between the authority and applicant shall contain such terms and conditions as the authority deems necessary to maintain the integrity of the drinking water loan fund according to the circumstances of each drinking water project.

Section 7. Applicant's Management Capacity. The department and the authority's staff shall require as a condition of any loan that the applicant perform any or all of the following:

(1) Document compliance with statutory mandates for financial accountability and personnel management.

(2) Demonstrate the ability to operate, as well as maintain, the drinking water project in a proper manner through the final maturity date of the loan.

(3) Document compliance with any other state or federal laws or regulations.

Section 8. Loan Closing and Extensions. An applicant shall meet all conditions of the conditional commitment letter and take bids for the drinking water project within not more than eleven (11) calendar months after the date of the conditional commitment letter, otherwise, the loan commitment shall expire. (For example, if an application was approved on January 1, 1992, bids for the project must be accepted and the assistance agreement signed by November 30, 1992.) One (1) extension period of up to six (6) months may be granted upon request of the applicant, if the authority determines that circumstances warrant the granting of the extension. If the extension is denied, the loan offer shall be rescinded. If a request for a time extension is granted, but all the conditions still cannot be met during the extension period, the loan commitment shall be rescinded. The applicant may reapply for any drinking water project for which the loan commitment has expired or been rescinded under this section.

Section 9. Authority to Administer the Program. The authority shall monitor the assistance agreements and require that financial reports be made available to the authority by the applicant at such intervals as shall be deemed necessary by the authority. The authority shall monitor the economic impact on the community, the cash flows of the project, and perform all actions that shall be required to assure that the agreements continuously meet the program standards established by this regulation. There shall be an annual administrative fee of two-tenths (.2) of one (1) percent charged on the unpaid balance of all loans. This fee shall be applied to the servicing costs of the loans and necessary operating expenses of the program.

L. ROGERS WELLS, JR., Secretary
APPROVED BY AGENCY: April 15, 1991
FILED WITH LRC: April 15, 1991 at noon

PUBLIC HEARING: A public hearing on the administrative regulation shall be held on May 21, 1991, at 10 a.m., in Room 285, Capitol Annex Building, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify the commission in writing by May 16, 1991, five days prior to the hearing of their interest to attend the hearing. If no notification of intent to attend this hearing is received by that date, the hearing may be cancelled. The hearing is open to the public. Any person that 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 at cost to the requesting party. If you do not wish to attend the public hearing, you may submit written comments on the proposed regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Marilyn Eaton, Kentucky Infrastructure Authority, Room 075, Capitol Annex Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Marilyn Eaton

(1) Type and number of entities affected: The regulation affects the Kentucky Infrastructure Authority, the Department of Local Government, and the Natural Resources and Environmental Protection Cabinet, as well as governmental agencies of the Commonwealth who are eligible to apply for financial assistance for the construction or acquisition of drinking water projects from the drinking water loan fund.

(a) Direct and indirect costs or savings to those affected: There appears to be no direct or indirect costs or savings to affected entities.

1. First year: Direct cost: 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: A governmental agency will have to apply to Department of Local Government to seek permission to obtain financial assistance for construction or acquisition of a drinking water project. There appears to be no additional paperwork or reporting requirements except for the fact that the Kentucky Infrastructure Authority will be required to make an annual

report on the program, which will consist of an extra line item in the the Kentucky Infrastructure Authority annual audit.

(2) Effects on the promulgating administrative body: There will be no additional costs imposed upon the promulgating administrative body. The Office for Investment and Debt Management has served as staff for the Kentucky Infrastructure Authority and no additional staff is needed for this program. The Department for Local Government, under this regulation, reviews applications for drinking water loan funds. After approval from the department, the application is then sent to the Kentucky Infrastructure Authority for financial analysis. Finally, the Natural Resources and Environmental Protection Cabinet reviews infrastructure projects if required by federal or state laws or regulations.

(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: The Kentucky Infrastructure Authority and the Department of Local Government will continue to keep records.

(3) Assessment of anticipated effect on state and local revenues: There appears to be no anticipated effect on any state or local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Pursuant to KRS 224.070(1) and 224A.113, the Secretary of the Finance and Administration Cabinet, as the Chairman of the Kentucky Infrastructure Authority, shall promulgate regulations to govern the application for and provision of financial assistance to governmental agencies for the construction or acquisition of infrastructure projects from the infrastructure revolving fund. Pursuant to this regulation, the Secretary of the Finance and Administrative Cabinet is establishing guidelines for distribution of monies from the infrastructure revolving fund. There are no other alternative methods by which the allocation can be established.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no other statute or administrative regulation which conflicts, overlaps, or duplicates the proposed administrative regulation. Pursuant to KRS Chapter 224A, the Secretary of Finance and Administration is required to promulgate the regulation on behalf of the Kentucky Infrastructure Authority.

(a) Necessity of proposed regulation if in conflict: There is no statute, regulation, or government policy in conflict with the proposed administrative regulation.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no statute, regulation, or government policy in conflict with the proposed administrative regulation.

(6) Any additional information or comments: The purpose of this administrative regulation is to prescribed guidelines for the application of financial assistance to governmental agencies for construction and acquisition of drinking water projects for the drinking water loan program.

TIERING: Was tiering applied? No. Tiering was not applied because distribution of public funds requires that all applicants meet the same eligibility requirements to ensure equal treatment for public funds. Furthermore, local governments must also meet the same eligibility requirements for infrastructure projects, i.e., solid waste projects, drinking water projects, and wastewater projects.

FINANCE AND ADMINISTRATION CABINET
Kentucky Infrastructure Authority

200 KAR 17:040. Guidelines for drinking water grant fund.

RELATES TO: KRS Chapter 224A

STATUTORY AUTHORITY: KRS Chapter 13A, 224A.070(1), 224A.113

NECESSITY AND FUNCTION: KRS 224A.070(1) and 224A.113, authorize the Kentucky Infrastructure Authority to promulgate regulations in accordance with KRS Chapter 13A, to govern the application for and provision of financial assistance to governmental agencies for the construction of drinking water projects from the drinking water grant fund.

Section 1. Definitions. For the purposes of this regulation the words and terms used shall have the same meaning as in KRS 224A.011, with the following additions:

(1) "Applicant" shall mean any governmental agency that has submitted an application to the authority for a grant from the drinking water grant fund.

(2) "Application" shall mean the application submitted by an applicant for a grant from the drinking water grant fund.

(3) "State clearinghouse review" shall mean a review conducted within the Department of Local Government pursuant to federal or state law or regulations.

(4) "Authority staff" shall mean the Office of Financial Management and Economic Analysis.

(5) "Financial hardship" shall mean the inability of an area to support debt due to socio-economic factors limiting the ability of the applicant to generate revenue.

(6) "Extreme health hazard" shall mean such documented existing conditions pertaining to the quality or absence of drinking water which significantly contribute to an increase in illness or which otherwise endanger human health or safety within the proposed project's service area.

(7) "Conditional commitment letter" shall mean a letter delivered to the applicant issuing the authority's commitment to provide a grant under specific terms and subject to the satisfaction of certain conditions by the applicant on or before the closing date.

(8) "Department" shall mean the Department of Local Government.

(9) "Closing date" shall mean the date established by the authority for execution of the assistance agreement upon satisfaction of the conditions contained in the conditional commitment letter.

(10) "Drinking water grant fund" shall mean the drinking water grant fund established pursuant to KRS Chapter 224A.

(11) "Drinking water project" shall mean the

acquisition, rehabilitation or construction of water treatment works, water distribution facilities, or water resources projects instituted by a governmental agency which is approved by the authority or, if required, by the Natural Resources and Environmental Protection Cabinet, Public Service Commission or other agency; or any other public water utility or public water service project.

(12) "Capital investment plan" shall mean the plan developed by the applicant for investment in capital projects as required by KRS 224A.112(6)(b).

Section 2. General Eligibility Requirements and Conditions to Financial Assistance. (1) Applications for drinking water projects shall be submitted only by applicants.

(2) Only applicants that certify in writing that they are unable to finance the entire drinking water project from their own resources shall be eligible for a grant. Documentation evidencing such inability shall include the following:

(a) Letters from local lending institutions.

(b) Letters from financial advisors, accountants or fiscal agents, if applicable.

(c) If the applicant is in an area which qualifies for assistance through the Farmer's Home Administration, ("FmHA"), a statement stating either:

1. The applicant will not qualify for funding;

2. The applicant has previously applied for FmHA funding and has failed to receive assistance in two (2) consecutive attempts; or

3. The applicant needs to supplement the FmHA funds with drinking water grant funds.

(d) Statements from any other sources or other certifications having a bearing on the application, which the authority in its discretion deems relevant for purposes of making the determination that an applicant is unable to finance the entire drinking water project from its own resources.

(3) Each applicant shall have or shall attain the legal authority necessary for constructing, operating and maintaining the proposed drinking water project.

Section 3. Eligible Drinking Water Projects. Monies in the drinking water grant fund shall be used for drinking water projects designed to encourage development opportunities within or among local communities and address serious drinking water needs.

Section 4. Submission Requirements and Review Process. (1) The original and two (2) copies of each application shall be submitted to: Department of Local Government, Capital Plaza Tower, 2nd Floor, Frankfort, Kentucky 40601; Attention: Director, Division of Community Programs.

(2) Application forms may be obtained from the Department of Local Government, and a complete application including all supporting documentation shall be submitted before an application will be considered for assistance from the drinking water grant fund.

Section 5. Criteria for Selecting Eligible Drinking Water Projects. (1) The Department of Local Government shall select and determine eligible drinking water projects for grants. The department shall take into consideration the following:

(a) Unemployment data, which shall be specific to the county or counties from which the application originates and shall reflect the most recent figures available from each county.

(b) The degree to which a drinking water project enhances development efforts in the community and its level of priority in the community's capital investment plan.

(c) The extent of the need for the drinking water project. Primary factors to be considered are both financial hardship and extreme health hazard as well as the extent of drinking water deficiencies on the community.

(d) Whether proposed costs of completing the drinking water project are reasonable given the geographic location of the drinking water project, current pricing trends, required professional services, and any other factors that may have a bearing on the drinking water project. The cost figures presented with the application will be reviewed to ensure the budget is sound. Any costs considered questionable will be analyzed to determine whether the integrity of the drinking water project is suspect.

(e) Whether the most beneficial drinking water project has been designed for the use of drinking water grant funds. Factors that shall be considered include the amount of funds requested, drinking water project need, development impact, local effort in terms of monetary participation and management, and program design. These factors will be used to determine the significance and impact of program accomplishments once the drinking water project is complete.

(2) The department shall review applications and assign a priority ranking based on the selection criteria. Drinking water projects shall be ranked as Priority I, Priority II, or Priority III.

(a) A Priority I ranking shall be assigned when, having considered all of the criteria, the drinking water project addresses a significant need, is well designed, cost effective, and, generally, is determined by the department to be the most suitable solution to the community's needs.

(b) Priority II shall be assigned when one (1) or more factors exist which would limit the success or feasibility of the project.

(c) Priority III shall be assigned when, having considered all the criteria, the department finds that the drinking water project is premature, is not feasible, or is inappropriate for assistance from the drinking water grant fund.

(d) The department shall recommend Priority I rankings to the authority for approval.

(3) Authority staff shall conduct a financial review of the Priority I designated drinking water project applications.

(a) The financial review shall include an analysis of:

1. The validity of the assumptions used to project new revenues resulting from the drinking water project;

2. Whether monies other than the drinking water grant have been committed and shall be available to fund the cost of the drinking water project;

3. Ability of the applicant to provide for maintenance and operations cost of the drinking water project and related public service system;

4. Ability of the applicant to service existing debt of the system related to the project;

5. Ability of the authority to finance the applicant's drinking water project using the financing programs permitted by Kentucky and federal laws or regulations.

(b) At any time during the financial analysis, an applicant may be notified of a deficiency. If the problem cannot be resolved through negotiation, the authority may remove the application from consideration.

Section 6. Grant Process. (1) Upon completion of the credit review by the authority's staff, the application shall be submitted to the authority for final action.

(2) If the authority approves the application, a conditional commitment letter shall be issued to the applicant. This letter shall set forth the conditions and documentation required by the authority prior to execution of an assistance agreement. No funds shall be provided until the assistance agreement is fully executed. The commitment shall be made upon the authority's satisfaction that the drinking water project proposed is financially feasible, the applicant is credit worthy and the project shall comply with all technical and program requirements set forth in state and federal laws and regulations.

Section 7. Applicant's Management Capacity. The department and the authority's staff shall require as a condition of any grant that the applicant perform any or all of the following:

(1) Document compliance with statutory mandates for financial accountability and personnel management.

(2) Demonstrate the ability to operate, as well as maintain, the project in a proper manner over the life of the drinking water project.

(3) Document compliance with any other state or federal laws or regulations.

Section 8. Grant Execution and Extensions. An applicant shall meet all conditions of the conditional commitment grant letter and take bids for the drinking water project within not more than eleven (11) calendar months after the date of the conditional commitment letter, otherwise, the grant commitment shall expire. One (1) extension period of up to six (6) months may be granted upon request of the applicant, if the authority determines that circumstances warrant the granting of the extension. If the extension is denied, the grant offer shall be rescinded. If a request for a time extension is granted, but all the conditions still cannot be met during the extension period, the grant commitment will be rescinded. The applicant shall reapply for a grant for any project from which the grant commitment has expired or been rescinded under this section.

Section 9. Authority to Administer the Program. The authority shall monitor the assistance agreements and require that periodic reports be made available to the authority by the governmental agency at such intervals as shall be deemed necessary by the authority. The authority shall perform all actions that shall be required to assure that the agreements continuously meet the program standards established by this regulation.

L. ROGERS WELLS, JR., Secretary
APPROVED BY AGENCY: April 15, 1991
FILED WITH LRC: April 15, 1991 at noon

PUBLIC HEARING: A public hearing on the administrative regulation shall be held on May 21, 1991, at 10 a.m., in Room 285, Capitol Annex Building, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify the commission in writing by May 16, 1991, five days prior to the hearing of their interest to attend the hearing. If no notification of intent to attend this hearing is received by that date, the hearing may be cancelled. The hearing is open to the public. Any person that 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 at cost to the requesting party. If you do not wish to attend the public hearing, you may submit written comments on the proposed regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Marilyn Eaton, Kentucky Infrastructure Authority, Room 075, Capitol Annex Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Marilyn Eaton

(1) Type and number of entities affected: The regulation affects the Kentucky Infrastructure Authority, the Department of Local Government, and the Natural Resources and Environmental Protection Cabinet, as well as governmental agencies of the Commonwealth who are eligible to apply for financial assistance for the construction or acquisition of drinking water projects from the drinking water grant fund.

(a) Direct and indirect costs or savings to those affected: There appears to be no direct or indirect costs or savings to affected entities.

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: A governmental agency will have to apply to the Department of Local Government to seek permission to obtain financial assistance for construction or acquisition of a drinking water project. There appears to be no additional paperwork or reporting requirements except for the fact that the Kentucky Infrastructure Authority will be required to make an annual report on the program, which will consist of an extra line item in the Kentucky Infrastructure Authority annual audit.

(2) Effects on the promulgating administrative body: There will be no additional costs imposed upon the promulgating administrative body. The Office for Investment and Debt Management has served as staff for the Kentucky Infrastructure Authority and no additional staff is needed for this program. The Department for Local Government, under this regulation, reviews applications for drinking water grant funds. After approval from the department, the application is then sent to the Kentucky Infrastructure Authority for financial analysis. Finally, the Natural Resources and Environmental Protection Cabinet reviews infrastructure projects if required by federal or state laws or

regulations.
(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: The Kentucky Infrastructure Authority and the Department of Local Government will continue to keep records.
(3) Assessment of anticipated effect on state and local revenues: There appears to be no anticipated effect on any state or local revenues.
(4) Assessment of alternative methods; reasons why alternatives were rejected: Pursuant to KRS 224.070(1) and 224A.113, the Secretary of the Finance and Administration Cabinet, as the Chairman of the Kentucky Infrastructure Authority, shall promulgate regulations to govern the application for and provision of financial assistance to governmental agencies for the construction or acquisition of infrastructure projects from the infrastructure revolving fund. Pursuant to this regulation, the Secretary of the Finance and Administration Cabinet is establishing guidelines for distribution of monies from the infrastructure revolving fund. There are no other alternative methods by which the allocation can be established.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no other statute or administrative regulation which conflicts, overlaps, or duplicates the proposed administrative regulation. Pursuant to KRS Chapter 224A, the Secretary of Finance and Administration is required to promulgate the regulation on behalf of the Kentucky Infrastructure Authority.
(a) Necessity of proposed regulation if in conflict: There is no statute, regulation, or government policy in conflict with the proposed administrative regulations.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no statute, regulation, or government policy in conflict with the proposed administrative regulation.
(6) Any additional information or comments: The purpose of this administrative regulation is to prescribe guidelines for the application of financial assistance to governmental agencies for construction and acquisition of drinking water projects for drinking water grant program.
TIERING: Was tiering applied? No. Tiering was not applied because distribution of public funds requires that all applicants meet the same eligibility requirements to ensure equal treatment for public funds. Furthermore, local governments must also meet the same eligibility requirements for infrastructure projects, i.e., solid waste projects, drinking water projects, and wastewater projects.

FINANCE AND ADMINISTRATION CABINET
Kentucky Infrastructure Authority

200 KAR 17:050. Guidelines for federally assisted wastewater revolving fund.

RELATES TO: KRS Chapter 224A
STATUTORY AUTHORITY: KRS Chapter 13A, 224A.070(1), 224A.113
NECESSITY AND FUNCTION: KRS 224A.070(1) and 224A.113 authorize the Kentucky Infrastructure Authority to promulgate regulations in accordance with KRS Chapter 13A, to govern the application for and provision of financial assistance to governmental agencies for the construction of infrastructure projects from the federally assisted wastewater revolving fund.

Section 1. Definitions. For the purposes of this regulation the words and terms used shall have the same meaning as in KRS 224A.011, with the following additions:
(1) "Applicant" shall mean any governmental agency that has submitted an application to the authority and the cabinet for a loan from the federally assisted wastewater revolving fund.
(2) "Application" shall mean an application submitted by an applicant for a loan from the federally assisted wastewater revolving fund.
(3) "Authority staff" shall mean the Office of Financial Management and Economic Analysis.
(4) "Cabinet" shall mean the Natural Resources and Environmental Protection Cabinet.
(5) "Closing date" shall mean the date established by the authority for execution of the assistance agreement upon satisfaction of the conditions contained in the conditional commitment letter.
(6) "Conditional commitment letter" shall mean a letter delivered to the applicant stating the authority's commitment to provide a loan under specifications and subject to the satisfaction of certain conditions by the applicant on or before the closing date.
(7) "Index rate" shall mean the average of the Bond Buyer's Index of twenty (20) G.O. Bonds as published weekly in the Bond Buyer (a financial newspaper published in New York) calculated based on the weeks falling within each calendar quarter. This average shall be rounded to the nearest one-tenth (.1) of one (1) percent.
(8) "Requisition for funds" shall mean the form identified in and attached to the assistance agreement to be used by the governmental agency for obtaining disbursements of the loan from the authority as construction of the wastewater project progresses.
(9) "State clearinghouse review" shall mean a review conducted by the Department of Local Government which has been designated as the single point of contact pursuant to federal and state laws or regulations.
(10) "Special depreciation fund" shall mean the special depreciation fund required to be established by an applicant by Section 7 of this regulation in connection with a loan from the federally assisted wastewater revolving fund.
(11) "Wastewater project" shall mean a wastewater project described in Section 3 of this regulation.
(12) "Construction project priority list" shall mean the list developed annually by the cabinet containing all eligible wastewater projects in priority order.

Section 2. Eligible Applicants. Any applicant, as defined in KRS 224A.011, shall be eligible to apply for financial assistance for planning, design and construction of eligible wastewater projects set forth in Section 3 of this regulation.

Section 3. Eligible Wastewater Projects. (1) Funds in the federally assisted wastewater revolving fund shall be used for planning, design and construction of wastewater collection, conveyance, and treatment facilities and for the implementation of nonpoint source pollution control management programs. Wastewater projects may include: wastewater treatment facilities, interceptor sewers and pump stations, collector sewers, inflow/infiltration corrections, sewer rehabilitation and combined sewer overflow.

(2) Only projects identified on the state's construction project priority list shall be considered for funding.

Section 4. Submission Requirements and Review Process. (1) The original and one (1) copy of each application shall be submitted to the address listed below or if different, to the address listed on the application: Kentucky Division of Water, Facilities Construction Branch, Frankfort Office Park, 18 Reilly Road, Frankfort, Kentucky 40601, Attention: Branch Manager, and one (1) copy of each application shall be simultaneously submitted to: Kentucky Infrastructure Authority, Room 075, Capitol Annex Building, Frankfort, Kentucky 40601, Attention: Executive Director.

(2) The application form, substantially in the form as in effect on April 15, 1991, which is incorporated by reference and is made a part hereof as if fully set forth herein, may be obtained at the Division of Water from 8 a.m. to 4:30 p.m., Monday through Friday. Only a completed application,including all supporting documentation, shall be considered for assistance from the federally assisted wastewater revolving fund.

(3) Financial information contained in the application shall be consistent with the estimates contained in the cost effective alternative selected in the facilities' planning process. Prior to issuance of a binding commitment by the authority, the application and facilities planning document shall be routed through state clearinghouse review.

Section 5. Criteria for Selecting Eligible Projects. (1) The cabinet shall select and determine eligible projects for loans and recommend such projects to the authority for consideration. The cabinet shall take into consideration the following:

(a) Whether the cost of completing the wastewater project is reasonable given the geographic location of the project, current pricing trends, required professional services, and any other factors that may have a bearing on the wastewater project. Cost figures submitted in the application shall be reviewed to determine whether the proposed budget for the wastewater project is feasible.

(b) Whether the most beneficial and effective project has been planned for the use of the federally assisted wastewater revolving fund.

(c) Wastewater projects funded, which have met all the requirements stated in this regulation, shall have priority for funding as indicated herein. Priority points shall be given each applicant based upon factors which consider:

1. The ratio of proposed wastewater treatment cost to wastewater transportation costs;
2. The impact the project has on any existing drinking water supply;
3. Outstanding resource waters in the area as defined by 401 KAR 5:029, Section 1(v);
4. The operational municipal performance ratings received by the applicant from the Division of Water;
5. Populations to be served that presently do not have sewer systems available;
6. The ratio of streamflow upstream to the existing or proposed discharge;
7. The ability to comply with the required discharge parameters for various pollutants for the applicant.

Section 6. Wastewater Project Requirements. (1) In addition to other requirements stated in this regulation, the following specific requirements shall be met:

(a) The wastewater project shall use the best practicable waste treatment technology.

(b) Alternative technologies shall have been considered in wastewater project planning.

(c) The related sewer collection system shall not be subject to excessive inflow/infiltration.

(d) Innovative and alternative treatment technologies shall have been studied in an effort to construct revenue producing facilities and to make more efficient use of energy and resources.

(e) Potential recreation and open space opportunities have been analyzed in the planning of the proposed facility.

(f) The project is included in the statewide plans developed under Sections 208 and 303(e) of the Federal Clean Water Act.

(g) The applicant has developed an adequate user charge system and the applicant has the legal, institutional, managerial and financial capability to construct, operate and maintain the wastewater project.

(h) The applicant shall agree, one (1) year after the date of completion of construction and initiation of operation, to certify to the cabinet that the facility meets design specifications and effluent limitations included in the discharge permit.

(i) The treatment system is cost effective and a value engineering review will be conducted for wastewater projects having construction costs over $2,000,000; provided that the foregoing engineering review shall not be required for collector sewers and minor sewer rehabilitation.

(j) The project has undergone appropriate reviews to ensure compliance with the National Environmental Policy Act.

(k) The applicant shall ensure that wages paid for the construction of the facilities shall conform to the prevailing wage rates established for the locality by the United States Department of Labor under the Federal Davis-Bacon Act or state wage rates, whichever rates are higher.

(l) The applicant shall ensure compliance with all applicable federal laws and regulations.

(m) Certification by the applicant that it has complied with the procurement requirements contained in KRS Chapter 45A.

(n) Construction contracts shall be awarded to the lowest responsive responsible bidder.

Section 7. Loan Process. (1) Upon completion of the credit review by the authority's staff, the application shall be submitted to the authority's board of directors for final action.

(2) If the authority approves the application, a conditional commitment letter shall be issued to the applicant. This letter shall set forth the conditions and documentation required by the authority prior to execution of an assistance agreement. No funds shall be provided until the assistance agreement is fully executed. The commitment shall be made upon the authority's satisfaction that the wastewater project proposed is financially feasible, the applicant is credit worthy and that the wastewater project will comply with all technical and program requirements set forth in state and federal laws and regulations.

(3) The authority shall establish interest rates quarterly based on prevailing market conditions. The rate of interest on each loan shall be set forth in the conditional commitment letter. There shall be two (2) rates of interest offered, the above median income interest rate and the below median income interest rate. The above median income interest rate shall be the index rate less three (3) percent. The above median interest rate shall apply to applicants whose jurisdiction lies within a county whose median family income level is above or equal to the statewide median household income level. The below median interest rate shall be the index rate less five (5) percent. The below median interest rate shall apply to applicants whose jurisdiction lies within a county whose median family income is below the statewide median family income. The most recent statistics on family income as published by the Urban Studies Center, University of Louisville, shall apply. If an applicant's jurisdiction lies within more than (1) one county, the average of the median family income of all the counties covered by the applicant's jurisdiction shall determine the applicable interest rate. If the median family income level of an applicant's community differs significantly from that of the applicant's county, the authority may consider adjustments of the interest rate to the below median income rate. If the nature of a wastewater project financed by the authority's loan causes interest on any authority bonds issued to fund the wastewater project to become taxable, the authority may consider adjustments in the interest rate to reflect the additional costs of authority funds.

(4) Loan repayments shall not exceed twenty (20) years, and principal and interest shall be paid semiannually, unless the authority establishes a more frequent payment schedule due to credit concerns. The loan repayment period may be less than twenty (20) years upon election of the authority. Loan repayments shall commence within six (6) months after the start of construction, unless repayment is dependent on revenues generated from the specific infrastructure project. In such cases, loan repayments shall begin within six (6) months after the wastewater project is operational, and interest to cover the authority's cost of money during the construction period may be added to the amount of the loan.

(5) The principal amount of each loan shall be equal to the amount approved by the authority. The final loan amount may be adjusted by up to ten (10) percent of the amount stated in the conditional commitment letter without further action by the authority, subject to the availability of funds to service the debt.

(6) To ensure adequate funds for major maintenance and replacement of the wastewater projects funded by this program, the applicant shall be required to set aside annually to a special depreciation fund from current revenues, after taking into account costs of operations and maintenance and debt service requirements, an amount to be determined by the authority. Monies may be withdrawn from the account when major maintenance or replacement of equipment in excess of budgeted amounts are required.

(7) The assistance agreement between the authority and applicant shall contain such terms and conditions as the authority deems necessary to maintain the financial integrity of the federally assisted wastewater revolving fund according to the circumstances of each wastewater project.

Section 8. Applicant's Management Capacity. The cabinet and the authority's staff may require as a condition of any loan that the applicant perform any or all of the following:

(1) Document compliance with the statutory mandates for financial accountability and personnel management.

(2) Demonstrate the ability to operate, as well as maintain, the project in a proper manner through the final maturity date of the loan.

(3) Document compliance with any other state or federal requirements.

Section 9. Submission and Review of Requisition for Funds. (1) The original and one (1) copy of each requisition for funds with the required invoices attached shall be submitted to the authority and one (1) copy of each requisition for funds with the required invoices attached shall be submitted to the Kentucky Division of Water at the address set forth in Section 4 of this regulation.

(2) The cabinet shall review requisitions for funds for compliance with federal and state requirements as defined in the conditional commitment letter and assistance agreement before approving payment by the authority.

Section 10. Loan Closing and Extensions. An applicant shall meet all conditions for loan closing and take action to award contracts for the wastewater project within not more than eleven (11) calendar months after the date of the conditional commitment letter, otherwise, the loan commitment shall expire. One (1) extension period of up to six (6) months may be granted upon request of the applicant, if the authority determines that circumstances warrant the granting of the extension. If the extension is denied, the loan offer shall be rescinded. If a request for a time extension is granted, but all the conditions still cannot be met during the extension period, the loan commitment may be rescinded. The applicant shall reapply for a loan for any wastewater project for which the loan commitment has expired or has been rescinded under this section.

Section 11. Authority to Administer the Program. The authority shall monitor the assistance agreements and require that financial reports be made available to the authority by the governmental agency at such intervals as

shall be deemed necessary by the authority. The authority shall monitor the cash flows of the wastewater project, and perform all actions that shall be required to assure that the agreements continuously meet the program standards established by this regulation. There shall be an annual administrative fee of two-tenths (.2) of one (1) percent charged on the unpaid balance of all loans. This fee shall be applied to the servicing costs of the loans and necessary operating expenses of the program.

L. ROGERS WELLS, JR., Secretary
APPROVED BY AGENCY: April 15, 1991
FILED WITH LRC: April 15, 1991 at noon
PUBLIC HEARING: A public hearing on the administrative regulation shall be held on May 21, 1991, at 10 a.m., in Room 285, Capitol Annex Building, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify the commission in writing by May 16, 1991, five days prior to the hearing of their interest to attend the hearing. If no notification of intent to attend this hearing is received by that date, the hearing may be cancelled. The hearing is open to the public. Any person that 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 at cost to the requesting party. If you do not wish to attend the public hearing, you may submit written comments on the proposed regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Marilyn Eaton, Kentucky Infrastructure Authority, Room 075, Capitol Annex Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Marilyn Eaton
(1) Type and number of entities affected: The regulation affects the Kentucky Infrastructure Authority and the Natural Resources and Environmental Protection Cabinet, as well as governmental agencies of the Commonwealth who are eligible to apply for financial assistance for the construction or acquisition of infrastructure projects from the federally assisted wastewater revolving fund.
(a) Direct and indirect costs or savings to those affected: There appears to be no direct or indirect costs or savings to affected entities except for the Kentucky Infrastructure Authority which has incurred additional costs due to the hiring of an additional staff member to assist in program responsibilities. This additional staff member will devote 50% of their time towards this program.
1. First year: Direct cost: $16,909; Indirect costs: $5,918; Computer Equipment: $2,000.
2. Continuing costs or savings: Same as (a)1 except for computer equipment.
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: A governmental agency will have to apply to Division of Water, Natural Resources and Environmental Protection Cabinet, to seek permission to obtain financial assistance for construction or acquisition of a wastewater project. There appears to be no additional paperwork or reporting requirements except for the fact that the Kentucky Infrastructure Authority will be required to make an annual report on the program. This report will include financial information and will be incorporated into the Kentucky Infrastructure Authority annual audit.
(2) Effects on the promulgating administrative body: There will be additional costs imposed upon the promulgating administrative body. The Division of Water, under this regulation, reviews applications for wastewater loan funds. After approval from the department, the application is then sent to the Kentucky Infrastructure Authority for financial analysis.
(a) Direct and indirect costs or savings: The Kentucky Infrastructure Authority has incurred additional costs due to the hiring of an additional staff member to assist in program responsibilities. This additional staff member will devote 50% of their time towards this program.
1. First year: Direct costs - $16,909; Indirect costs - $5,918; Computer Equipment - $2,000.
2. Continuing costs or savings: Same as (a)1 except for computer equipment.
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: The Kentucky Infrastructure Authority and the Division of Water will continue to keep records.
(3) Assessment of anticipated effect on state and local revenues: There appears to be no anticipated effect on any state or local revenues.
(4) Assessment of alternative methods; reasons why alternatives were rejected: Pursuant to KRS 224.070(1), and KRS 224A.113, the Secretary of the Finance and Administration Cabinet, as the Chairman of the Kentucky Infrastructure Authority, shall promulgate regulations to govern the application for and provision of financial assistance to governmental agencies for the construction or acquisition of infrastructure projects from the infrastructure revolving fund. Pursuant to this regulation, the Secretary of the Finance and Administration Cabinet is establishing guidelines for distribution of monies from the infrastructure revolving fund. There are no other alternative methods by which the allocation can be established.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no other statute or administrative regulation which conflicts, overlaps, or duplicates the proposed administrative regulation. Pursuant to KRS Chapter 224A, the Secretary of Finance and Administration is required to promulgate the regulation on behalf of the Kentucky Infrastructure Authority.
(a) Necessity of proposed regulation if in conflict: There is no statute, regulation, or government policy in conflict with the proposed administrative regulation.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no statute, regulation, or government policy in conflict with the proposed administrative regulation.
(6) Any additional information or comments: The purpose of this administrative regulation is

to prescribed guidelines for the application of financial assistance to governmental agencies for construction and acquisition of infrastructure projects for the federally assisted wastewater revolving fund program.

TIERING: Was tiering applied? No. Tiering was not applied because distribution of public funds requires that all applicants meet the same eligibility requirements to ensure equal treatment for public funds. Furthermore, local governments must also meet the same eligibility requirements for infrastructure projects, i.e., solid waste projects, drinking water projects, and wastewater projects.

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

401 KAR 48:210. Provisions for the storage and disposal of waste tires.

RELATES TO: KRS 224.005 through 224.110, 224.2611 through 224.2637, 224.830 through 224.888

STATUTORY AUTHORITY: KRS Chapter 13A, 224.020, 224.033, 224.2611 through 224.2637, 224.842

NECESSITY AND FUNCTION: KRS Chapter 224 requires the cabinet to adopt rules and regulations for the management, processing, and disposal of solid waste. KRS 224.842 requires that persons engaging in the storage, treatment, and disposal of solid waste obtain a permit. KRS 224.2615 requires the cabinet to implement a waste tire removal and control program that will manage waste tire piles which are a threat to the health of the public and the quality of the environment until action can be taken to eliminate the piles, that will eliminate existing accumulations of waste tires which are a threat to the health of the public and the quality of the environment, and that will prevent the creation of new waste tire piles. KRS 224.2623 requires the cabinet to establish standards for controlling accumulations of waste tires. This chapter establishes the minimum technical standards for solid waste sites or facilities. This regulation sets forth the requirements for permitting solid waste management facilities storing waste tires, and for the storage and disposal of waste tires.

Section 1. Applicability. (1) Waste tires shall only be stored for processing purposes or for disposal in a landfill permitted by the cabinet. Unless exempt under KRS 224.2629, 224.2631, or 224.2633, the storage of waste tires shall be allowed as follows:

(a) Persons who accumulate and store 100 or fewer waste tires shall manage those tires in accordance with subsection (3) of this section.

(b) Unless subject to the provisions of paragraph (c) of this subsection, persons who accumulate and temporarily store more than 100 waste tires shall first register with the cabinet as a registered permit-by-rule facility. These persons shall comply with the requirements of 401 KAR 47:030; 401 KAR 47:110, Sections 1 through 3; subsections (2) and (3) of this section; Sections 2, 5, and 6, and, if applicable, Section 4 of this regulation.

(c) Persons who accumulate and temporarily store more than 500 waste tires and retain any of those tires for more than ninety (90) days shall first obtain a waste tire storage permit from the cabinet. These persons shall comply with the requirements of 401 KAR 47:030; subsections (2) and (3) of this section; and Sections 3, 4, 5, 6, and 7 of this regulation.

(2) Any person with an accumulation of more than 100 waste tires in existence on the effective date of this regulation shall file a registration form or a waste tire storage permit application as appropriate by September 16, 1991. Additionally, shredded tires in a single pile of less than one-fourth (1/4) acre in existence on January 16, 1991, and all waste tire piles that do not conform to the requirements of this regulation, shall be eliminated or modified to meet the requirements of this regulation not later than December 31, 1991.

(3) All waste tire accumulations, including accumulations of 100 or fewer waste tires, shall be managed in a manner that does not present a threat to the health of the public and the quality of the environment in order to prevent fires and to prevent the spread of illnesses through insects or animals. Pursuant to KRS 224.2615, the cabinet shall take necessary action to ameliorate existing damage and prevent further damage from accumulations that fail to be so managed.

Section 2. Requirements for a Waste Tire Registered Permit-by-rule. (1) Registration. A registration for a registered permit-by-rule pursuant to Section 1(1)(b) of this regulation shall contain the following information:

(a) The name and address of the person accumulating the tires;

(b) The address of the property, the location of the property, and the location of the site on the property where the waste tires are to be stored, and the names and addresses of the surface landowner and adjacent landowners;

(c) The reason for accumulating the tires;

(d) The rate of accumulation, to be expressed in monthly amounts;

(e) The average and maximum number of waste tires to be temporarily stored at the location;

(f) A signed certification of compliance with the waste tire control program of this regulation and KRS 224.2615 through 224.2637;

(g) The name of the provider of firefighting protection, a description of the available firefighting equipment, and the name and address of the local fire department;

(h) A description of the program used to assure compliance with subsection (4) of this section;

(i) A description of the method used to prevent water entrapment;

(j) A description of financial responsibility required in Section 6 of this regulation; and

(k) Any other information requested on the registration form or otherwise required by the cabinet.

(2) The person accumulating the waste tires shall keep records and submit reports as specified in 401 KAR 47:110, Section 2(3).

(3) The registration form and quarterly report form for a registered permit-by-rule are incorporated by reference in 401 KAR 47:110, Section 4.

(4) If 500 or fewer waste tires are stored at any one (1) time, no waste tire shall be stored for longer than six (6) months. If more than 500

waste tires are stored at any one (1) time, no waste tire shall be stored for longer than ninety (90) days.

(5) The waste tires shall be maintained to prevent water entrapment, in accordance with KRS 224.2623.

(6) The waste tires shall be temporarily stored at either the point of generation, a processing or disposal facility, or an intermediate collection point.

(7) The waste tires shall be stored in a manner to allow access of firefighting equipment.

Section 3. Requirements for a Waste Tire Storage Permit. (1) An application for a waste tire storage permit pursuant to Section 1(1)(c) of this regulation shall contain the following information:

(a) The name and address of the person accumulating the waste tires;

(b) The address of the property, the location of the property, and the location of the site on the property where the waste tires are stored, and the names and addresses of the landowner and adjacent landowners;

(c) The average number of waste tires to be temporarily stored at the location;

(d) The reason for accumulating the tires;

(e) The rate of accumulation, to be expressed in monthly amounts;

(f) Whether the person accumulating waste tires ships to or receives waste tires from other locations and a description of any contractual agreements pertaining to waste tire receipt;

(g) A description of the processing method and final disposition of waste tires to include:

1. Method to be used to process tires;

2. Procedures to be used to segregate tires into groups, to prevent water entrapment, to provide access for firefighting equipment, and to prevent spread of disease;

3. An explanation of how the final disposition of waste tire material is to be accomplished; and

4. Methods to be used to contain liquid run-off in the event of a fire;

(h) The maximum storage capacity of the site expressed in number of tires;

(i) A signed certification of compliance with the waste tire control program of this regulation and KRS 224.2615 through 224.2637;

(j) A description of the program to assure compliance with subsection (5) of this section;

(k) The name of the provider of firefighting protection, a description of the available firefighting equipment, and the name and address of the local fire department; and

(l) Any other information requested on the permit application form or otherwise required by the cabinet.

(2)(a) The person accumulating waste tires shall submit a quarterly report to the cabinet no later than the 15th of the month following the end of each quarter on the form provided by the cabinet as incorporated by reference in subsection (4) of this section. Reporting quarters shall end on March 31, June 30, September 30, and December 31 of each year.

(b) The quarterly report shall identify the source and number of waste tires received at the facility, the number of waste tires processed, the method and location of disposal or recycling, and the number of unprocessed waste tires remaining at the end of the quarter.

(3) The applicant shall pay a $500 permit application filing fee and comply with the requirements of 401 KAR 47:090, Section 2(8) and (9).

(4) The application form and quarterly report form for a waste tire storage permit are incorporated by reference into this subsection. These forms became effective January 1991, and are available for copying and inspection from the 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.

(5) No waste tire shall be stored for longer than six (6) months.

(6) The waste tires shall be maintained to prevent water entrapment, in accordance with KRS 224.2623.

(7) The waste tires shall be stored at either the point of generation, a processing or disposal facility, or an intermediate collection point.

(8) The waste tires shall be stored in a manner to allow access of firefighting equipment.

Section 4. Operating Requirements for Temporary Storage of More than 500 Tires Under a Registered Permit-by-rule or a Waste Tire Storage Permit. Persons who accumulate more than 500 waste tires shall:

(1) Store the tires in piles that have a geometry that will allow expeditious control in the event of a fire;

(2) Maintain fire lanes of a width of no less than twelve (12) feet at the narrowest point between piles to allow access by firefighting equipment;

(3) Maintain fire breaks of a width no less than fifteen (15) feet at the narrowest point between the tire piles to prevent fire from spreading between piles;

(4) Maintain a retaining structure that will contain the liquid component of the tires in the event of a fire; and

(5) Store tires at least 250 feet from adjoining property lines and public roads.

Section 5. Exemptions and Restrictions. The restrictions specified in KRS 224.2621 and the exemptions specified in KRS 224.2629, 224.2631, and 224.2633 shall apply to this regulation.

Section 6. Financial Responsibility and Bonds for a Waste Tire Registered Permit-by-rule and a Waste Tire Storage Permit. (1) Persons who accumulate waste tires shall provide financial security in the amount of:

(a) $3,000 for a site that will contain more than 100, but no more than 500 waste tires; or

(b) For a site containing more than 500 waste tires, $5,000, plus one (1) dollar per tire, determined by the maximum number of tires to be stored at the site.

(2) Bonding shall conform to the requirements of Appendix A, B, or C of 401 KAR 48:310.

(3) Bonds shall be released upon certification by the permittee and the cabinet that all tires have been removed, and division has revoked the storage permit.

Section 7. Public Notification Process. (1) Once the cabinet has made a tentative decision to issue or deny a waste tire storage permit, a single public notice shall be published and distributed as follows:

(a) The notice shall contain the following:

1. The name and address of the applicant;
2. A description identifying the location where the waste tires would be stored. For facilities proposed within city limits, the description shall include the city name and the street address. For facilities proposed outside city limits, the description shall include the county name, the name and geographic relationship (direction and distance) to the nearest community, the name of the landowner, the name and geographic relationship to the road intersection, and any other information needed to enable the general public to locate the proposed facility;
3. A brief description of the reason for accumulating the waste tires;
4. The maximum number of waste tires to be stored at the site at any one (1) time;
5. The name and address of the cabinet office where the application and draft permit may be inspected and to which comments may be submitted;
6. The expiration date for public comment;
7. Whether the tentative decision is to issue or deny the permit; and
8. Any other information deemed to be necessary by the cabinet to describe the site or operation.

(b) The public notice shall be of a size to include not less than two (2) widths for advertising, and shall be in a display format.

(c) The public notice shall be published in the daily or weekly newspaper of largest bona fide circulation, according to the definition in KRS 424.110 through 424.120, in the county where the storage site would be located. For a tentative decision to issue the permit, the applicant shall be responsible for publishing the notice. For a tentative decision to deny the permit, the cabinet shall be responsible for publication.

(d) The cabinet shall distribute a public notice containing the information required under paragraph (a) of this subsection to the following:

1. If applicable, each unit of local, state, or federal government having jurisdiction over the area where the tires would be stored, or over lands that could reasonably be expected to be impacted in the event of improper management of the site;
2. The landowner of the property where the tires would be stored, and the landowners of adjacent property;
3. The local fire department;
4. The county judge executive or mayor of an urban county government and members of the fiscal court or urban county council of the county or urban county government in which the facility would be located; and
5. The contact for the area's solid waste management plan.

(2) For a tentative decision to issue the permit, within fifteen (15) days of publication of the notice the applicant shall submit to the cabinet proof of the notice's publication. This proof shall consist of either an affidavit from the publishing newspaper, certifying the date, place, and contents of the notice, or a copy of the full page containing the notice, with the pertinent notice highlighted.

(3) There shall be a thirty (30) day period, commencing on the date the public notice is published (pursuant to subsection (1)(c) of this section) or distributed (pursuant to subsection (1)(c) of this section), whichever is later, during which any interested person may submit written comments on the application or draft permit.

(4) After the public comment period, the cabinet shall issue or deny the permit, or return the application to the applicant for correction or clarification. Any person aggrieved by the cabinet's decision as to permit issuance or denial may request a public hearing pursuant to KRS 224.081(2).

CARL H. BRADLEY, Secretary
FRANK DICKERSON, Commissioner
APPROVED BY AGENCY: March 20, 1991
FILED WITH LRC: March 21, 1991 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on May 29, 1991, at 10 a.m. at the Capital Plaza Tower, Ground Floor Auditorium. Individuals interested in being heard at this hearing shall notify this agency in writing by May 24, 1991, 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. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation to the contact person: Susan C. Bush, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Susan C. Bush

(1) Type and number of entities affected: Kentuckians add approximately 4 million waste tires per year to the existing stockpile of approximately 10 million. The proposed regulation will affect all of those individuals who handle waste tires. It will affect the tire dealer who needs to dispose of waste tires, landfill owners who no longer can accept tires without processing them, and the individual who randomly stores waste tires in piles. Kentuckians generate at least one waste tire per person per year.

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

1. First year: The most significant cost will be in cleaning up existing waste tire piles that are located across the state. These vary from several tires placed in sinkholes by individuals to massive dumps with hundreds of thousands of tires in one place. Landfill owners will need to purchase equipment to cut or process the waste tires to make them suitable for disposal.
2. Continuing costs or savings: Savings will eventually be realized for landfill owners as they will charge a processing fee for waste tire disposal. Removing the potential health hazard from Kentucky will also save in future cleanup expenses. The cost of tire disposal will increase.
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 will be quarterly reporting requirements for waste tire piles qualifying for a registered permit-by-rule or a full storage permit. Also,

these permit classifications will need to register with the cabinet or file a complete permit application.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The cabinet will experience costs in reviewing and acting on registrations for registered permit-by-rules and applications for storage permits. Additional staff time will be used for processing quarterly reports.

2. Continuing costs or savings: The first year costs will continue.

3. Additional factors increasing or decreasing costs: The cabinet will also be involved in monitoring and enforcing illegal waste tire piles.

(b) Reporting and paperwork requirements: The cabinet will have an increased work load in tracking waste tire piles and reviewing quarterly reports, registrations, and permit applications.

(3) Assessment of anticipated effect on state and local revenues: There is no anticipated effect on state or local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) The proposed amendments are in response to House Bill 32, codified at 224.2611 through 224.2637, concerning waste tires.

Alternative: 1. Less stringent. The cabinet cannot be less stringent than the requirements mandated by state statutes.

2. More stringent. The cabinet cannot be more stringent than the requirements mandated by state statutes.

3. Present proposal. The proposed regulation establishes provisions for the storage and disposal of waste tires. The requirements for permitting are based on the number of waste tires handled and the length of time the tires are to be stored. Storage of more than 100 waste tires is limited to the point of generation, a processing or disposal facility, or an intermediate collection site. The proposed regulation recognizes the exemptions found at KRS 224.2629 (tire disposal programs administered by interlocal agreement in counties of an area development district), KRS 224.2631 (up to 750 waste tires that were in use as of January 1, 1991 as an integral part of a business and that are not for storage or disposal purposes), and KRS 224.2633 (waste tires used for agricultural purposes).

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no statute, administrative regulation or government policy in conflict.

(a) Necessity of proposed regulation if in conflict: There is no conflict.

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

(6) Any additional information or comments: There are no additional comments.

TIERING: Was tiering applied? Yes. The regulations of 401 KAR Chapters 47 and 48 use multiple tiering systems. Permit-by-rule in 401 KAR 47:150, and registered permit-by-rule in 401 KAR 47:110, give certain practices and management activities a method of avoiding full permits. Emergency permits and research, development, and demonstration permits in 401 KAR 47:150 provide permitting mechanisms for certain situations. The solid waste landfills (contained, residual, and construction/demolition debris) and the 3 classes of landfarming provide for a tiering mechanism based on the type and quality of the waste received.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. There is no federal mandate. The proposed regulation is being promulgated in response to HB 32 which has been codified at KRS 224.2611 through 224.2637.

2. State compliance standards. The proposed regulation establishes provisions for the storage and disposal of waste tires. The requirements for permitting are based on the number of waste tires handled and the length of time the tires are to be stored. Storage of more than 100 waste tires is limited to the point of generation, a processing or disposal facility, or an intermediate collection site. The proposed regulation recognizes the exemptions found at KRS 224.2629 (tire disposal programs administered by interlocal agreement in counties of an area development district), KRS 224.2631 (up to 750 waste tires that were in use as of January 1, 1991 as an integral part of a business and that are not for storage or disposal purposes), and KRS 224.2633 (waste tires used for agricultural purposes).

3. Minimum or uniform standards contained in the federal mandate. There is no federal mandate.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? There is no federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. There is no federal mandate.

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

702 KAR 1:071. Repeal of 702 KAR 1:070.

RELATES TO: KRS 156.148, 156.230
STATUTORY AUTHORITY: KRS 156.070
NECESSITY AND FUNCTION: KRS 156.148 makes the chief state school officer directly answerable to the State Board for Elementary and Secondary Education; and KRS 156.230 addresses the preparation of various publications. 702 KAR 1:070 is no longer necessary since the substance of it can be addressed simply by internal operating policy.

Section 1. 702 KAR 1:070, Authority to meet report requirements, 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).

THOMAS C. BOYSEN, Commissioner

JOSEPH W. KELLY, Chairman
APPROVED BY AGENCY: March 28, 1991
FILED WITH LRC: March 29, 1991 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on May 22, 1991 at 10 a.m. in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by May 17, 1991, five days prior to hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Dr. Dan H. Branham, Secretary, State Board of Elementary and Secondary Education, First Floor, 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 PROFESSIONAL STANDARDS BOARD

704 KAR 20:580. Certification revocation procedures.

RELATES TO: KRS 161.120, 335B.010 to 335B.070
STATUTORY AUTHORITY: KRS 161.028, 161.120
NECESSITY AND FUNCTION: KRS 161.120 provides that any Kentucky certification for school personnel may be revoked or suspended by the Education Professional Standards Board. This regulation identifies the conditions for initiating revocation proceedings and the procedures to be followed, including the rules governing revocation hearings.

Section 1. (1) Action to revoke any Kentucky certificate may be initiated by the Education Professional Standards Board upon receiving one (1) or more of the following:
(a) Report from district school superintendent, as required in KRS 161.120, on a certified school employee whose contract is terminated or not renewed for grounds set forth in KRS 161.120(1); who resigns from, or otherwise leaves, a position under threat of contract termination, or nonrenewal for grounds set forth in KRS 161.120(1); who is convicted in a criminal prosecution; or who is otherwise known to have engaged in such actions or conduct as might reasonably be expected to warrant consideration for certificate revocation. The duty to report shall exist without regard to any disciplinary action, or lack thereof, by the superintendent, and the required report shall be submitted within thirty (30) days of the event giving rise to the duty to report.
(b) Report of criminal prosecution for persons who are not employed in a professional school position, but who hold a Kentucky certificate.
(c) Report of certificate revocation or suspension from another state.
(d) Report received from a school superintendent resulting from an unsatisfactory criminal records check as required by KRS 160.380.
(e) Report from the chief state school officer or local board of education of conduct of the superintendent which might reasonably be construed as grounds for revocation as set forth in KRS 161.120(1).
(2) Failure to report by the superintendent as outlined in subsection (1)(a) and (d) of this section may constitute grounds for revocation of the superintendent's certificate.

Section 2. (1) Upon receiving a report as identified in Section 1 of this regulation, the Executive Secretary of the Education Professional Standards Board shall, on behalf of the board, secure available documentation and information relating to the cause for certificate revocation. In the case of a certified school employee, the Education Professional Standards Board shall provide a copy of the report to the certified employee and inform him of the right to file a written rebuttal with the executive secretary within thirty (30) days of receipt of notice.
(2) The Education Professional Standards Board, or its designee, shall make the determination that the report warrants or does not warrant a hearing for certificate revocation. In making this determination, the board or its designee, shall take into account the conditions outlined in Section 3 of this regulation.
(3) If the Education Professional Standards Board, or its designee, makes the determination that a hearing is not warranted based on reports identified in Section 1(1)(a) and (d), the certified employee shall be informed of the decision not to initiate revocation proceedings.
(4) Upon determination to initiate revocation proceedings the Education Professional Standards

Board, through its designee, shall inform the certificate holder by certified mail of the decision to initiate proceedings and the charges against him and set a time and date for a hearing. The hearing shall take place no less than twenty (20) days nor more than forty-five (45) days after the certificate holder receives the statement of charges.

(5) The hearing may be public or private at the discretion of the certificate holder, who may be represented by counsel, and shall be conducted by a quorum of the Education Professional Standards Board.

(6) Upon completion of the hearing, the Education Professional Standards Board may by a majority vote render its decision or may defer its action for no more than five (5) days. A certificate may be revoked for a specific minimum period or for an indefinite period.

(7) If the Education Professional Standards Board takes action to revoke, the certificate holder shall be notified by certified mail of the revocation action, the duration of the revocation, and procedure to apply for reissuance of the certificate as provided in KRS 161.120(1).

(8) All Kentucky school superintendents, state directors of teacher education and certification, and the NASDTEC-CAA Clearinghouse operated by the National Association of State Directors of Teacher Education and Certification shall be notified of the certificate revocation action. Information of certificate revocation shall be entered into the teacher certification record of the certificate holder including the computer data bank maintained by the Division of Teacher Education and Certification.

Section 3. Revocation proceedings shall be automatically initiated on receipt of a report on a certificate holder under the following conditions:

(1) Conviction of a felony.

(2) Conviction on any charge involving sexual misconduct.

(3) Conviction on any charge involving child abuse.

(4) Conviction on any misdemeanor where a student is involved.

(5) Providing false information on a certificate application and/or forged transcripts of credits.

(6) Dismissal on grounds of willful neglect of duty, misconduct in office, or immorality.

(7) Revocation or denial of a certificate by another state for reasons and through procedures that are the same as, or substantially equivalent to, those permitting similar action in Kentucky.

(8) Admission of criminal conduct, such as that exemplified in plea bargaining.

Section 4. In all cases where the Education Professional Standards Board is unable, after reasonable diligence, to notify a certificate holder of a scheduled hearing on pending charges, the hearing shall be continued generally until the individual can be notified or presents himself for hearing. Such charges shall not be dropped in the interim, and the fact of pending revocation charges shall be appropriately noted in the individual's certification record and shall be communicated to all Kentucky school superintendents and to all state directors of teacher education and certification.

Section 5. (1) Any individual whose certificate is revoked may apply for reissuance of the Kentucky certificate when satisfactory evidence can be furnished of good moral character, mental and physical health, and such other evidence as the Education Professional Standards Board may deem necessary to establish the applicant's fitness for reissuance. When the board's order of revocation sets forth a specific minimum period of revocation, an individual may not apply for reissuance prior to the end of the minimum revocation period.

(2) Applicants for reissuance of a revoked certificate must, in addition, satisfy all current educational requirements for the certificate.

Section 6. Rules for Hearings. (1) The Education Professional Standards Board delegates to its executive secretary the authority to grant or deny motions to postpone, and similar prehearing motions.

(2) Except in extraordinary circumstances, the executive secretary shall not rule on prehearing motions to dismiss and similar motions which can be deferred until the time of the hearing.

(3) The presence of witnesses may be required upon subpoenas issued by the chief state school officer at the request of the Chairman of the Education Professional Standards Board or the certified employee. Each witness shall be required to take an oath or affirmation prior to testimony. Witnesses appearing pursuant to subpoena shall receive fees and mileage as prescribed by law for witnesses in civil action.

(4) Discovery.

(a) On petition of any party, the Executive Secretary of the Educational Professional Standards Board may order that the testimony of any material witness may be taken by deposition in the manner prescribed by law for depositions and civil actions.

(b) Depositions may also be taken by the use of audio or audio-visual recordings. The petition shall set forth the name and address of the witness whose testimony is desired, a showing of the materiality of the testimony of the witness, and the request for an order that the testimony of such witness be taken before an officer named in the petition for that purpose. If the witness resides in this state and is unwilling to appear, the chief state school officer may issue a subpoena requiring the appearance of the witness.

(c) The certificate holder or the Education Professional Standards Board may request that the other party produce for inspection or provide copies of any designated documents or any tangible things which are relevant to the proceeding and are not otherwise exempt from disclosure. A party may charge a fee to reimburse for the actual cost of producing or copying documents.

(5) Evidence.

(a) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded, but erroneous rulings on evidence shall not preclude Education Professional Standards Board action on the record unless shown to have substantially prejudiced the rights of a party. All other evidence of a type commonly relied upon by reasonably prudent persons in conduct of their

serious affairs shall be admissible. Objections to evidentiary offers may be made and shall be noted in the record. Any part of the evidence may be received in written form.

(b) All evidence shall be offered and made a part of the record in the case, except for matters stipulated to and except as provided in subsection (d) of this section. No other factual information or evidence shall be considered in the determination of the case. Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference. The burden of presenting evidence to support a fact or position rests on the opponent fact or position.

(c) The certificate holder and the other party shall have the right of cross-examination of witnesses who testify and shall have the right to submit rebuttal evidence.

(d) The Education Professional Standards Board may take notice of judicially cognizable facts, and the Education Professional Standards Board may take official notice of general, technical, or scientific facts. The Education Professional Standards Board may utilize its experience, technical competence, and specialized knowledge in the evaluation of the evidence presented to them.

(e) The executive secretary shall have discretion to require the parties to submit prior to the hearing date documents which may be introduced as evidence, names and addresses of witnesses, and other information to facilitate the hearing. The Education Professional Standards Board shall have discretion to require the parties to submit proposed findings of fact and conclusions of law.

Section 7. 704 KAR 20:450 is hereby repealed.

JANICE WEAVER, Chairman
APPROVED BY AGENCY: March 18, 1991
FILED WITH LRC: March 22, 1991 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation will be held on May 28, 1991 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 May 23, 1991, five days prior to hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Dr. Elizabeth Nelli, Interim Executive Secretary, Education Professional Standards Board, 18th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

CONTACT PERSON: Hanson Williams, Staff Attorney, Office of Legal Services, Department of Education, 120 Capital Plaza Tower, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Hanson Williams

(1) Type and number of entities affected: All school district superintendents and any certified employee or certificate holder whose conduct may fall under provisions of KRS 161.120(1).

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

1. First year: Costs related to reporting and costs related to hearing on revocation.

2. Continuing costs or savings: Same as above.

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

(b) Reporting and paperwork requirements: Report from superintendents on certified employees whose conduct may warrant revocation; EPSB staff will secure documentation.

(2) Effects on the promulgating administrative body: Establish and administer process of receiving reports and rebuttal, review documents, notifying certificate holder, holding hearings and notifying appropriate entities of revocation action and updating certification.

(a) Direct and indirect costs or savings:

1. First year: Costs related to administering the above $55,000.

2. Continuing costs or savings: Approximately the same as above unless the workload increases.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Reports and recordkeeping related to the administration of the program as described above.

(3) Assessment of anticipated effect on state and local revenues: No effect on revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: The administrative regulations implement KRS 161.020 and set up procedures required for review of reports required by statute and the hearing and other procedures related to certificate revocation. This regulation also repeals 704 KAR 20:450.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: 704 KAR 20:450 will be repealed.

(a) Necessity of proposed regulation if in conflict: NA

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

(6) Any additional information or comments: This regulation also repeals 704 KAR 20:450.

TIERING: Was tiering applied? No. Reporting requirements and other procedures identified in KRS 161.120 and proposed regulation apply to all effected entities uniformly.

WORKFORCE DEVELOPMENT CABINET
Department for Adult and Technical Education

780 KAR 3:160. Local school district service credit.

RELATES TO: KRS 151B.035
STATUTORY AUTHORITY: KRS 151B.035
NECESSITY AND FUNCTION: KRS 151B.035 requires the State Board for Adult and Technical Education to promulgate comprehensive

administrative regulations governing classification and compensation plans.

Section 1. An employee of a local school district who transfers to become an employee of the Department of Education after June 30, 1983, and subsequently to the Department for Adult and Technical Education on July 1, 1990, or who transferred to the Department for Adult and Technical Education after July 1, 1990, shall be allowed to transfer accrued sick leave. The employee shall be allowed credit for each year of experience in the local school system for the purposes of determining the rate of accumulation of annual and sick leave in the Department for Adult and Technical Education.

GEORGE R. SIEMENS, JR., Chairman
APPROVED BY AGENCY: March 27, 1991
FILED WITH LRC: April 15, 1991 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on May 22, 1991 at 10 a.m., EDT, in the Room 2010, 20th Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by May 17, 1991, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by this date, the hearing may be cancelled. Those persons wishing to attend and testify shall contact in writing: Audrey T. Carr, Secretary, State Board for Adult and Technical Education, 2013 Capital Plaza Tower, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Audrey Carr
(1) Type and number of entities affected: Number will vary; will affect very few annually. Any person who transfers from the Department of Education or a local school district to work as a certified staff person.
(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: Will allow the department to recruit persons by assuring they can transfer with accrued sick leave.
(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:
(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: This regulation will permit the department to treat prospective employees fairly. Currently, staff can transfer from a local district to the Department of Education and bring leave. This regulation would allow them to transfer to the Department for Adult and Technical Education on the same basis.
TIERING: Was tiering applied? Yes

PUBLIC PROTECTION AND REGULATION CABINET
Department of Mines and Minerals
Division of Explosives and Blasting

805 KAR 4:155. Ground vibration standards for surface coal mines.

RELATES TO: KRS 351.330
STATUTORY AUTHORITY: KRS Chapter 13A, KRS 351.335
NECESSITY AND FUNCTION: KRS 351.330 requires that the Department of Mines and Minerals prescribe rules to ensure that the restrictions on maximum peak particle velocity be consistent with federal statutes and regulations. This regulation effects those provisions.

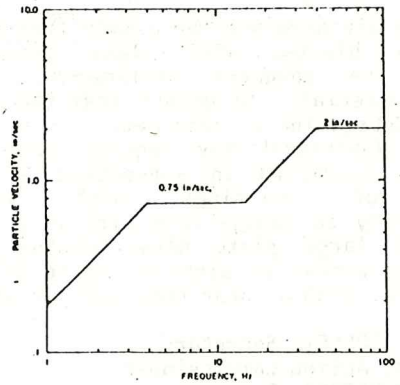
Section 1. Blasting operations conducted as part of surface coal mining, or as part of the surface operations of an underground coal mine, shall comply with the standards contained in this section.
(1) The maximum allowable peak particle velocity for ground vibration measured at the location of the nearest dwelling, public building, church or commercial building shall not exceed the limits established in Table 1 as follows:

TABLE 1. PEAK PARTICLE VELOCITY LIMITS

Distance from blasting site in feet	Maximum peak particle velocity in inches/second
0 to 300	1.25
301 to 5000	1.00
5001 and beyond	0.75

(2) The peak particle velocity specified in this section shall be measured in three (3) mutually perpendicular directions, and the maximum allowable limits shall apply to each of these measurements.
(3) The ground vibration limits shall not apply to property owned by the coal mine, or to property on which the owner gives a written waiver to exceed the maximum allowable limits.

Section 2. (1) In place of the limits established in Section 1 of this regulation, a blaster may elect to comply with the following graph limiting peak particle velocity based upon the frequency content of the blast vibration. If this criterion is chosen to limit vibration levels, the method of monitoring the vibrations and calculating the frequency content shall be approved by the department before its implementation by the blaster.



(2) Unless the blaster uses a seismograph on every blast to demonstrate compliance with the maximum allowable limits established in section 1, or has been granted a modified scale distance factor by the department, he must comply with the scale distance equations in Table 2 as follows:

TABLE 2. SCALE DISTANCE EQUATIONS

Distance from blasting site in feet	Scale distance equations
0 to 300	$W = (D/50)^2$
301 to 5000	$W = (D/55)^2$
5001 and beyond	$W = (D/65)^2$

where: W = the maximum weight of explosives that can be detonated per delay period.
D = the distance in feet from the blast to the nearest dwelling, public building, school, church, commercial or institutional building.

(3) If a blaster considers the table of scale distance equations in subsection (2) of this section too conservative, he may petition the department for a modified table for blasting operations at a particular site. Such a petition shall include seismograph reports demonstrating that any modified scale distance equations would not cause the predicted ground vibration to exceed the peak particle velocity limits established in Section 1 of this regulation.

THEODORE T. COLLEY, Secretary
CARL ANKROM, Acting Commissioner
LARRY C. SCHNEIDER, Director
APPROVED BY AGENCY: April 8, 1991
FILED WITH LRC: April 10, 1991 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Friday, May 24, 1991 at 10 a.m. in the Conference Room of the Department of Mines and Minerals, 3572 Ironworks Pike, Lexington, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by May 19, 1991, 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 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 attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Larry Schneider, Kentucky Department of Mines and Minerals, P. O. Box 14080, Lexington, Kentucky 40512.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Larry Schneider

(1) Type and number of entities affected: Annually, there are 10 to 15 persons working in the oil and gas industry who apply for a blaster's license. These people will be affected by this amendment relating to the licensure of oil and gas blasters. Other changes will affect all 3500 licensed blasters in the Commonwealth.

(a) Direct and indirect costs or savings to those affected: There will be no added costs or savings since the requirements of this proposed amendment allow affected oil and gas blasters to use a Limited Blaster's License instead of the General Blaster's License. The examination fee, license fee and renewal fees are identical for both licenses.

1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors increasing or decreasing costs, nor any effect on competition.

(b) Reporting and paperwork requirements: There are no additional reporting or paperwork requirements in this regulation. The record specified in subsection (6)(c) is already required to be completed, this regulation merely specifies the person responsible for this record.

(2) Effects on the promulgating administrative body: This amendment will have no effect upon the Department of Mines and Minerals, since the agency is currently issuing the license made subject to the regulation.

(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: There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: There are no additional reporting or 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: The alternative methods available would be to leave the licensing requirements for oil and gas blasters as they exist. This is an unfair requirement on these people since the existing requirements for licensure do not correspond to their methodology or experience.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no conflicts between this regulation and other statutes, regulations, or 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:

(6) Any additional information or comments: Currently, a person in the oil and gas industry who applies for a blaster's license must meet

the same requirements that blasters in the construction and mining industry do. This requires that they complete extensive training in the fundamentals of explosive practices in these fields. Likewise, the subject matter on the blaster's examination is directed toward the large scale explosive user in surface coal mines and on construction projects. They are unfamiliar with this material, and even after learning this material it has little or nothing to do with the explosive applications they make. The use of small-shaped explosive charges to perforate well casing and rack strata is so specialized that is should not be considered to be within the scope of "blasting operations" as defined by KRS 351.310. The addition of paragraph (c) to subsection (6) is intended to enable the department to identify the individual blaster responsible for a particular detonation when there are several licensed blasters employed in the blasting operation. Subsections (1), (2), (11) and a portion of (13) are deleted in order to comply with KRS Chapter 13A, which prohibits an administrative regulation that repeats statutory language. The aforementioned subsections reiterate language found in KRS 351.315 verbatim. Other amendments of individual words or phrases are intended to clarify the language and meaning of certain subsections.

TIERING: Was tiering applied? Yes. Tiering is used in this proposed amendment since the type of blasting that persons in the oil and gas industry do is considerably different from the typed done in the construction and mining industry. In view of this, the requirement for a blaster's license should reflect this difference. Likewise, the use of small explosive charges to perforate well casing does not constitute the "blasting" as it is usually regarded.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Mines and Minerals
Division of Explosives and Blasting

805 KAR 4:160. Airblast.

RELATES TO: KRS 351.330
STATUTORY AUTHORITY: KRS Chapter 13A, KRS 351.335
NECESSITY AND FUNCTION: KRS 351.330 requires that the Department of Mines and Minerals prescribe rules to ensure that the use of explosives be done in a manner so that the safety of persons or property is not threatened. This regulation provides rules to protect persons and property from the effects of excessive airblast.

(1) Maximum allowable airblast at any dwelling, public building, school, church, commercial ~~or institutional building shall not~~ exceed one hundred and twenty nine (129) decibels ~~when measured by an instrument having a~~ flat frequency response (+/- 3 decibels) over a range of at least ~~2~~ to 200 hertz. If the airblast is measured ~~with~~ an instrument having a flat frequency response (+/- 3 decibels) over a range of at least 2 to 200 hertz, ~~the corresponding limit is~~ one hundred and thirty-three (133) decibels.

~~(2) If the department believes that the~~ airblast from a blasting operation is exceeding or threatening to exceed the limits in subsection (1), it may require that the blaster monitor the air airblast for a specified period.

(3) The blaster shall take precautions, including the adequate confinement of all explosive materials, to ensure that the airblast limits in subsection (1) are met.

(4) The department may require lower limits than those specified in subsection 1 in the vicinity of buildings with increased susceptibility to damage from airblast, such as those with large plate glass windows, or in areas where excessive airblast could be deemed unacceptable, such as near hospitals or schools.

THEODORE T. COLLEY, Secretary
CARL ANKROM, Acting Commissioner
LARRY C. SCHNEIDER, Director
APPROVED BY AGENCY: April 8, 1991
FILED WITH LRC: April 10, 1991 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Friday, May 24, 1991 at 10 a.m. in the Conference Room of the Department of Mines and Minerals, 3572 Ironworks Pike, Lexington, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by May 19, 1991, 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 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 attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Larry Schneider, Kentucky Department of Mines and Minerals, P. O. Box 14080, Lexington, Kentucky 40512.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Larry Schneider

(1) Type and number of entities affected: Annually, there are 10 to 15 persons working in the oil and gas industry who apply for a blaster's license. These people will be affected by this amendment relating to the licensure of oil and gas blasters. Other changes will affect all 3500 licensed blasters in the Commonwealth.

(a) Direct and indirect costs or savings to those affected: There will be no added costs or savings since the requirements of this proposed amendment allow affected oil and gas blasters to use a Limited Blaster's License instead of the General Blaster's License. The examination fee, license fee and renewal fees are identical for both licenses.

1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors increasing or decreasing costs, nor any effect on competition.

(b) Reporting and paperwork requirements: There are no additional reporting or paperwork requirements in this regulation. The record specified in subsection (6)(c) is already required to be completed, this regulation merely specifies the person responsible for this record.

(2) Effects on the promulgating administrative

body: This amendment will have no effect upon the Department of Mines and Minerals, since the agency is currently issuing the license made subject to the regulation.

(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: There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: There are no additional reporting or 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: The alternative methods available would be to leave the licensing requirements for oil and gas blasters as they exist. This is an unfair requirement on these people since the existing requirements for licensure do not correspond to their methodology or experience.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no conflicts between this regulation and other statutes, regulations, or 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:

(6) Any additional information or comments: Currently, a person in the oil and gas industry who applies for a blaster's license must meet the same requirements that blasters in the construction and mining industry do. This requires that they complete extensive training in the fundamentals of explosive practices in these fields. Likewise, the subject matter on the blaster's examination is directed toward the large scale explosive user in surface coal mines and on construction projects. They are unfamiliar with this material, and even after learning this material it has little or nothing to do with the explosive applications they make. The use of small-shaped explosive charges to perforate well casing and rack strata is so specialized that is should not be considered to be within the scope of "blasting operations" as defined by KRS 351.310. The addition of paragraph (c) to subsection (6) is intended to enable the department to identify the individual blaster responsible for a particular detonation when there are several licensed blasters employed in the blasting operation. Subsections (1), (2), (11) and a portion of (13) are deleted in order to comply with KRS Chapter 13A, which prohibits an administrative regulation that repeats statutory language. The aforementioned subsections reiterate language found in KRS 351.315 verbatim. Other amendments of individual words or phrases are intended to clarify the language and meaning of certain subsections.

TIERING: Was tiering applied? Yes. Tiering is used in this proposed amendment since the type of blasting that persons in the oil and gas industry do is considerably different from the typed done in the construction and mining industry. In view of this, the requirement for a blaster's license should reflect this difference. Likewise, the use of small explosive charges to perforate well casing does not constitute the "blasting" as it is usually regarded.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Mines and Minerals
Division of Explosives and Blasting

805 KAR 4:165. Use of non-electric initiation systems.

RELATES TO: KRS 351.330

STATUTORY AUTHORITY: KRS Chapter 13A, KRS 351.335

NECESSITY AND FUNCTION: KRS 351.330 requires that the Department of Mines and Minerals prescribe rules to ensure that the use of explosives be conducted in a manner so that the safety of persons or property is not threatened. This regulation provides standards to prevent the misuse of non-electric initiation systems.

(1) All non-electric initiation systems and components of these systems shall be used in accordance with their manufacturers recommendations and instructions.

(2) All members of the blasting crew shall be instructed in the safe use of the initiation system and its components. It shall be the duty of the blaster in charge to provide adequate on-the-job training and supervision in the safe use of such system.

(3) No tool shall be used to pry on any component containing a detonator, nor shall any tool be used to open, close, fasten, or clean out any connector containing a detonator of detonating device.

(4) Components of any initiating system shall be used as originally manufactured; no one shall attempt to modify or alter any component of an initiation system. Components which are defective, damaged, or incompatible shall not be used, but should be returned to the manufacturer or properly destroyed.

(5) When using surface components which detonate and throw shrapnel, such components shall be covered with adequate amounts of earth of other materials to prevent cut-offs and misfires.

(6) All blasting operations shall cease during the approach and progress of a thunderstorm, regardless of the type of initiation system in use.

(7) All detonators shall be completely embedded inside the primer cartridge, and securely fastened in a manner to prevent excessive tension or bending of the cord or tube.

(8) When and explosive bulk truck or other vehicle is operated on a blast site, care shall be taken to ensure that the vehicle is not driven over the tubing, connectors of any surface delay component. Precautions shall be made to protect these elements before the vehicle is operated on the blast site.

(9) When using a system with surface delays or detonators, any row of holes near a highwall where there is a danger of falling rocks shall be connected into the shot last.

(10) In multiple row blasts, the initiation system shall not be connected from row to row until all drilling and loading have been completed. In single row blasts, the components shall not be connected from hole to hole until all drilling and loading are completed.

THEODORE T. COLLEY, Secretary
CARL ANKROM, Acting Commissioner
LARRY C. SCHNEIDER, Director
APPROVED BY AGENCY: April 8, 1991
FILED WITH LRC: April 10, 1991 at 9 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on Friday, May 24, 1991 at 10 a.m. in the Conference Room of the Department of Mines and Minerals, 3572 Ironworks Pike, Lexington, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by May 19, 1991, 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 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 attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Larry Schneider, Kentucky Department of Mines and Minerals, P. O. Box 14080, Lexington, Kentucky 40512.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Larry Schneider

(1) Type and number of entities affected: Annually, there are 10 to 15 persons working in the oil and gas industry who apply for a blaster's license. These people will be affected by this amendment relating to the licensure of oil and gas blasters. Other changes will affect all 3500 licensed blasters in the Commonwealth.

(a) Direct and indirect costs or savings to those affected: There will be no added costs or savings since the requirements of this proposed amendment allow affected oil and gas blasters to use a Limited Blaster's License instead of the General Blaster's License. The examination fee, license fee and renewal fees are identical for both licenses.

1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors increasing or decreasing costs, nor any effect on competition.

(b) Reporting and paperwork requirements: There are no additional reporting or paperwork requirements in this regulation. The record specified in subsection (6)(c) is already required to be completed, this regulation merely specifies the person responsible for this record.

(2) Effects on the promulgating administrative body: This amendment will have no effect upon the Department of Mines and Minerals, since the agency is currently issuing the license made subject to the regulation.

(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: There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: There are no additional reporting or 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: The alternative methods available would be to leave the licensing requirements for oil and gas blasters as they exist. This is an unfair requirement on these people since the existing requirements for licensure do not correspond to their methodology or experience.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no conflicts between this regulation and other statutes, regulations, or 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:

(6) Any additional information or comments: Currently, a person in the oil and gas industry who applies for a blaster's license must meet the same requirements that blasters in the construction and mining industry do. This requires that they complete extensive training in the fundamentals of explosive practices in these fields. Likewise, the subject matter on the blaster's examination is directed toward the large scale explosive user in surface coal mines and on construction projects. They are unfamiliar with this material, and even after learning this material it has little or nothing to do with the explosive applications they make. The use of small-shaped explosive charges to perforate well casing and rack strata is so specialized that is should not be considered to be within the scope of "blasting operations" as defined by KRS 351.310. The addition of paragraph (c) to subsection (6) is intended to enable the department to identify the individual blaster responsible for a particular detonation when there are several licensed blasters employed in the blasting operation. Subsections (1), (2), (11) and a portion of (13) are deleted in order to comply with KRS Chapter 13A, which prohibits an administrative regulation that repeats statutory language. The aforementioned subsections reiterate language found in KRS 351.315 verbatim. Other amendments of individual words or phrases are intended to clarify the language and meaning of certain subsections.

TIERING: Was tiering applied? Yes. Tiering is used in this proposed amendment since the type of blasting that persons in the oil and gas industry do is considerably different from the typed done in the construction and mining industry. In view of this, the requirement for a blaster's license should reflect this difference. Likewise, the use of small explosive charges to perforate well casing does not constitute the "blasting" as it is usually regarded.

CABINET FOR HUMAN RESOURCES
Office of the Secretary
Family Resource & Youth Services Centers

900 KAR 4:010. Criteria for awarding grants for family resource and youth services centers.

RELATES TO: KRS 156.497, 158.360, 160.345
STATUTORY AUTHORITY: KRS 156.497(6), 194.050

NECESSITY AND FUNCTION: KRS 156.497 requires that the Cabinet for Human Resources issue an administrative regulation to establish criteria for the awarding of family resource and youth services centers grants. The grant program shall be established to provide qualifying public schools in school districts with financial assistance to implement family resource and youth services centers. Grants shall be awarded through a financial agreement between the cabinet and a local public school district on an annual basis. All qualifying public schools within a school district shall have established and implemented a family resource, youth services, or combination family resource and youth services center by the close of state fiscal year (FY) 95 or June 30, 1995. This regulation implements the provisions of KRS 156.497 to establish an interagency task force on family resource and youth services centers to review grant applications, monitor centers, and oversee the implementation process until December 31, 1995.

Section 1. Definitions. The following definitions shall be applicable to this regulation unless the specific context dictates otherwise:

(1) A "core component" means an activity or service provided for children or their families required to be implemented as part of a family resource or youth services center. For a family resource center, there shall be six (6) core components as set forth by KRS 156.497(3)(a) through (f). For a youth services center, there shall be five (5) core components as set forth by KRS 156.497(4)(a) through (e).

(2) "Economically disadvantaged" means any child enrolled in a school program who is eligible to receive free school meals or a member of the eligible child's immediate family.

(3) "Family resource center" means an entity with a unique blend of components and approaches designed to promote the flow of human resources and support to preschool and elementary school children and their families to strengthen their functioning and to enhance the growth and development of the individual members and the family unit.

(4) "Human resources and support" means activities or services provided for children and families through a center which shall include, but is not limited to, the core components specified in subsection (1) of this section and any other optional components determined through a needs analysis to be conducted as part of the application process.

(5) "Local advisory body" means a membership body as defined in subsection (6) of this section. This body shall provide initial and ongoing representation of the views and opinions of major sectors of the community.

(6) "Membership of a local advisory body" means that at least one-third (1/3) of the members shall be parents of students in the eligible school or schools who should represent the socioeconomic and racial composition of the community and the cultural diversity of each school's student body. In addition, for a youth services center, defined in subsection (10) of this section, at least two (2) youth representatives who represent the socioeconomic and racial composition of the community and the cultural diversity of each school's student body, shall serve as members. Additional members of a local advisory body shall be representative of, but not limited to, school staff, and individuals from the community, human resource agencies and organizations, the private sector, churches, and civic organizations.

(7) "Optional component" means an activity or service provided for children or their families which is in addition to those components specified by KRS 156.497(3)(a) through (f) and KRS 156.497(4)(a) through (e) and designed to satisfy unique community needs.

(8) "Qualifying school" means any local public school within the Commonwealth in which twenty (20) percent or more of its student body is eligible to receive free school meals.

(9) "School consortium" means a group of two (2) or more public schools within the same community, geographical area, or school district which decide to join together to apply for a grant for one (1) common family resource center, youth services center, or a combined family resource and youth services center which is accessible to the children, youth, and families from each school.

(10) "Youth services center" means any entity with a unique blend of components and approaches designed to promote the flow of human resources and support to middle school, junior high school, and high school students and their families to strengthen their functioning and enhance the growth and development of the individual members and the family unit.

Section 2. Family Resource and Youth Centers Grant Program. (1) The Cabinet for Human Resources through promulgation of this regulation shall establish criteria for the selection of each individual school or school consortium to be awarded grants for family resource and youth services centers.

(2) The interagency task force on family resource and youth services centers, appointed by the Governor, shall be responsible for approving the selection criteria promulgated in this regulation, reviewing grant applications, monitoring progress of the centers, and overseeing their implementation.

(3) Annually, upon review of the grant applications, the interagency task force on family resource and youth services centers shall make its recommendations for centers to be funded to the Secretary of the Cabinet for Human Resources.

(4) Grants shall be awarded annually on a competitive or a continuation basis through FY 95. All qualifying schools shall have submitted applications and implemented centers by the close of FY 95 or June 30, 1995. Centers which have been implemented in a prior year of funding shall continue to make application for successive years of funding, but not on a competitive basis.

(5) Grant proposal instructions as specified in subsection (6) of this section shall be developed by the Cabinet for Human Resources and approved by the interagency task force on family resource and youth services centers.

(6) The grant proposal instructions shall require each school or school consortium applying for a grant to address the following elements:

(a) A statement of need which shall identify the services and activities which are deficient in the community for the families and children to be served through the center;

(b) Proposed goals which shall indicate in broad and general terms, planned outcomes to be achieved by the center;

(c) Planning and implementation activities which shall describe the functions and types of steps to be taken to prepare the center to become operational;

(d) A description of the existing service delivery system which shall identify the types of services currently available in the community, any barriers to receiving those services, any gaps in services, and any services that are not available;

(e) The level of community involvement which shall describe how the center plans to access services and activities that can be provided from existing community resource agencies and other entities in the community, and how it shall develop written agreements of collaboration with these service providers;

(f) A description of the role, functions, and representation on the local advisory body which shall provide an overview of the governance and decision-making responsibilities for the center;

(g) Information dissemination which shall describe the strategies to be developed for marketing the center to the people in the community;

(h) A training plan which shall indicate how the various individuals to be involved with the center shall be trained on its functions, goals, and activities;

(i) A description of a plan for minimizing stigma at the center which shall discuss planned efforts to make the center a comfortable, pleasant, and nonthreatening environment which is available for all members of the community;

(j) Parental consent and confidentiality rights which shall describe the procedures developed to obtain parental permission for the provision of services and for the sharing of confidential information among the various agencies providing services;

(k) The major program components to be provided by the center which shall address the service and activities, both core and optional, to meet the needs of the families and children to be served;

(l) Staffing for the center which shall describe the hiring procedures, staff qualifications, and duties and responsibilities of those employed at the center;

(m) The program and services site which shall indicate the location of the center, where various services and activities are to be provided, their accessibility to children and families, and a tentative schedule of the hours of operation;

(n) A work plan which shall be a complete form or forms, entitled "Work Plan Format", indicating a needs statement, goal, objective or objectives, tasks, timelines, and outcomes for each core and optional component to be provided through the center;

(o) A financial strategy and budget which shall include an outline of the agencies and organizations providing target services, outside funding sources and amounts, the number of children and families served on an annual basis, and an estimate of the unmet financial need. A form, the "Component Budget Description", shall be completed indicating a budget description for each core and optional component. A form, the "Center Operating Budget", shall be completed for the total center operating budget;

(p) A program evaluation plan which shall provide a description of how all projected outcomes included in the work plan shall be evaluated at the end of the contract year as well as a description of quarterly progress reports to be submitted;

(q) Endorsements or letters of commitment for the center which shall be included as attachments to the proposal from key members of the community and from agencies and organizations which intend to provide services or assistance at the center;

(r) An application cover sheet, a form entitled "Kentucky Family Resource and Youth Services Center FY 92 Application Cover Sheet", which shall be attached to the proposal and provides specific information about the proposed center;

(s) An application committee or advisory council membership list, a form entitled "Application/Advisory Council", which shall be included with the center proposal;

(t) An assurances page, a form entitled "Assurances and Certification", which shall be attached to the proposal and assures compliance with all federal, state, and local policies and guidelines; and

(u) A program abstract which shall be included and contains a summarization of the major components of the proposal.

(7) Application review teams comprised of three (3) members each shall review proposals and score each application according to its ability to address each of the elements required in the proposal instructions, including the core and optional components.

(a) Each element shall be assigned a weight from one (1) to three (3) according to its degree of importance in implementing the center proposal;

(b) A rating scale of zero to four (4) shall be used to score each element according to its ability to address what is requested in the proposal instructions;

(c) The rating of zero to four (4) multiplied by the weight assigned to each element shall give the total points awarded for each element; and

(d) Bonus points shall be given to applications based on the adoption of school-based decision-making councils and the percentage of children eligible to receive free school meals.

(8) Criteria for the selection of centers shall be on the basis of the total scores achieved and documented on an application rating form developed by the Cabinet for Human Resources.

(9) Selection criteria shall also take into consideration the following factors:

(a) The percentage of children eligible to receive free school meals for each school to be served by the center;

(b) The existence of a school-based decision-making council;

(c) The size of the center in terms of the number of children eligible for free school meals. Consideration shall be given to large, medium-sized, and small center applications;

(d) A demonstrated collaborative effort on the part of existing human services and education systems;

(e) Evidence of local initiatives to encourage delivery of human services currently unavailable in the center's area;

(f) The local contribution of the community in terms of additional funds, space, transportation;
(g) Geographical distribution around the state;
(h) Representation from urban, rural, and suburban settings; and
(i) A reasonable balance between the numbers of family resource and youth services centers.
(10) A minimum acceptable score shall be established by the interagency task force on family resource and youth services centers which shall be the lowest score any application can receive in order to be recommended for funding.
(11) Proposal reviewers shall be selected by the Secretary of the Cabinet for Human Resources based on recommendations received from the interagency task force on family resource and youth services centers and other key education and human resource agencies and organizations.
(12) Each member of a proposal review team shall be trained on the application review and scoring criteria prior to evaluating an application.
(13) In the event of fifteen (15) percent or more variance of at least one (1) reviewer's score from the median score, the proposal shall be reevaluated by another review team.
(14) Upon individual review of each application assigned for evaluation, an average score will be determined for each application.
(15) In the case of applications which receive average scores, priority in ranking shall be given to those that have a higher percentage of students eligible for free school meals.
(16) Once average scores are tabulated for all applications submitted, the applications shall be ranked according to the average score received and presented to the interagency task force on family resource and youth services centers for approval.
(17) Written notification shall be provided to each school district making an application providing notice of funding or nonfunding for each center proposed.

Section 3. Provisions contained in this regulation shall be enforced as of May 13, 1991.

Section 4. Material Incorporated by Reference. (1) Forms necessary for submission of family resource and youth services centers grant application are incorporated by reference effective May 13, 1991.
(2) These forms may be inspected and copied at the Cabinet for Human Resources, Family Resource and Youth Services Centers, 275 East Main Street, Fourth Floor - West, Frankfort, Kentucky, 40621, from 8 a.m. to 4:30 p.m., Monday through Friday.

RONNIE DUNN, Project Coordinator
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: April 12, 1991
FILED WITH LRC: April 15, 1991 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on May 21, 1991 at 9 a.m. in the Department for Employment Services Conference Room, 2nd Floor West, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by May 16, 1991, 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: Ms. Ronnie Dunn
(1) Type and number of entities affected: All public schools in the state with 20% or more of the student body eligible to receive free school meals (approximately 1,000).
(a) Direct and indirect costs or savings to those affected:
1. First year: $9,025,000 (FY 92) (Costs).
2. Continuing costs or savings: Each year, an additional $9,025,000 in funding plus inflation factor through FY 95 (Costs).
3. Additional factors increasing or decreasing costs (note any effects upon competition): Four year phase in schedule of eligible schools from FY 92 through FY 95.
(b) Reporting and paperwork requirements: Quarterly progress reports and a year end outcome report.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: $475,000 (FY 92) (Costs).
2. Continuing costs or savings: Each successive year, an additional $475,000 plus inflation factor through FY 95 (Costs).
3. Additional factors increasing or decreasing costs: Staff and operating costs will increase as additional schools are phased in.
(b) Reporting and paperwork requirements: Development of a pilot performing tracking system.
(3) Assessment of anticipated effect on state and local revenues: Funding for centers should stimulate additional federal, state and local contributions and resources.
(4) Assessment of alternative methods; reasons why alternatives were rejected: No viable alternatives were identified as funding was set forth by statute.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Was tiering applied? Yes. Grants shall be awarded on a competitive basis to all eligible schools. Grant applications will be rated on their ability to address required elements of the program. Bonus points shall be awarded to schools based on the adoption of school-based decision making councils and the percentage of children eligible to receive free school meals.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
Minutes of the April 1 & 2, 1991 Meeting

The April meeting of the Administrative Regulation Review Subcommittee was held on Monday, April 1, 1991 at 2 p.m. in Room 327 of the Capitol and on Tuesday, April 2, 1991 at 10 a.m. in Room 327 of the Capitol. Chairman Tom Kerr called the meeting to order, and the secretary called the roll. The minutes of the March 5 and 6, 1991 meeting were approved.

Present on April 1, 1991 were:

Members: Representative Tom Kerr, Chairman; Senators Gene Huff, Pat McCuiston and Bill Quinlan; Representatives Woody Allen, Jim Bruce and James Yates.

Guests: Michael Gardone, Debbie McGuffey, Aphrodite Brough, Council on Higher Education; Bremer Ehrler, George Russell, Art Vogedes, Carla Arnold, State Board of Elections; Pat Arnold, Betty Otten, Unified Prosecutorial System; Arthur Hatterick, Jr., Personnel Board; Nathan Goldman, Board of Nursing; Dave Nicholas, Board of Respiratory Care; Dave Rosenbaum, Jim Villines, Department for Surface Mining; Michael Bradley, Ellen Tharpe, Corrections Cabinet; Joe Clemons, Kentucky Association of Highway Centers.

LRC Staff: Susan Wunderlich, Joe Hood, Peggy Jones, Susan Eastman, and Ed Sergent.

Present on April 2, 1991 were:

Members: Representative Tom Kerr, Chairman; Senators Gene Huff, Pat McCuiston and Bill Quinlan; Representatives Woody Allen, Jim Bruce and James Yates.

Guests: Robert Powell, Corrections Cabinet; Woody J. Barwick, Warren Nash, School Facilities Construction Commission; Judith G. Walden, Department of Housing, Buildings and Construction; Barbara Coleman, Staci Searcy, Ralph Von Derau, David Crane, Gary R. Hammond, Eric Friedlander, Janice Kline, Cookie Whitehouse, Ked Fitzpatrick, Anita Moore, Judy Trigg, Cabinet for Human Resources; James Judy, KAHCF; Nancy Tullis, Kentucky Dietitic Association; Nancy Cox, Alzheimer's Association - Lexington/Bluegrass Chapter; Kathy Gannoe, Bluegrass LTC Ombudsman Program; Carolyn Breeding, Registered Dietitians.

LRC Staff: Susan Wunderlich, Joe Hood, Peggy Jones, Donna Pierce, and Susan Eastman.

The Subcommittee determined that the following administrative regulations, as amended, complied with KRS Chapter 13A:

Legislative Research Commission: Capital Planning Advisory Board

1 KAR 6:010 (Policies and procedures.) Section 1 of this regulation was amended to state that the information requested is for the 1991 planning period.

State Board of Elections: Forms and Procedures

31 KAR 4:060 (Biennial purge.) Section 3 was amended to specify the material incorporated by reference by date and title, and to provide information pertaining to where copies may be obtained. Secretary of State Bremer Ehrler appeared before the Subcommittee and answered several questions raised by members concerning the purging of voters. There was a great deal of concern relating to voters who had not moved but had changes of address by the U.S. Postal Service. Secretary Ehrler stated that these people will receive a notice, but their county clerk would be well aware of the address changes and purging should not result.

Personnel Board: Personnel Rules

101 KAR 1:325 (Probationary periods.) On learning that there was a need for additional changes, an amendment was requested by the Subcommittee, and was concurred in by the agency. This amendment results from class titles being altered or classes having been abolished.

General Government Cabinet: Board of Nursing

The following two regulations were amended to comply with the drafting requirements of KRS 13A.222.

201 KAR 20:161 (Investigation and disposition of complaints.)

201 KAR 20:162 (Procedures for disciplinary hearings pursuant to KRS 314.091.)

Board of Respiratory Care

201 KAR 29:010 (Definition of activities under limited mandatory certification.) This regulation was amended to comply with the drafting requirements of KRS 13A.222.

Corrections Cabinet: Office of the Secretary

501 KAR 6:130 (Western Kentucky Correctional Complex.) WKCC 02-01-01 was amended for clarity. WKCC 11-00-05 and 13-00-01 were amended to comply with the drafting requirements of KRS Chapter 13A.

Juvenile Holding Facilities

501 KAR 9:025 (Administration; management.) This regulation was amended to conform with the drafting requirements of KRS Chapter 13A. Section 4 was amended to require that a parent or legal guardian also sign a "Release of Information Consent Form" prior to release of that information.

Public Protection and Regulation Cabinet: Department of Housing, Buildings and Construction: Plumbing

815 KAR 20:073 (Installation standards for water and waste piping of types K, L, M and DWV copper; types R-K, R-DWV brass tubing, G or H.) Section 4(5)(d) was amended to comply with KRS Chapter 13A.

Electrical Inspectors

815 KAR 35:015 (Certification of electrical inspectors.) This regulation was amended to conform with the requirements of KRS Chapter 13A. Section 11(1) was amended to delete the words "and state leased" in reference to buildings inspected by state-employed certified electrical inspectors.

Cabinet for Human Resources: Department for Health Services: Health Services and Facilities

902 KAR 20:290 (Standards for Alzheimer's facilities.) Jim Judy, Kentucky Association of Health Care Facilities, requested that this regulation be amended by deleting the minimum staffing ratios for direct patient care. Nancy Cox, Lexington/Bluegrass Chapter of Alzheimer's Association, stated that the care of patients with Alzheimer's Disease requires adequate training and staff-to-patient ratios. She emphasized that without this training there would be catastrophic results due to aides not knowing how to care for these patients. Kathy Gannoe, Bluegrass LTC Ombudsman Program, stated

that a minimum staff-to-patient ratio was necessary. Nancy Cox also requested that the requirement for a quarterly support group meeting be changed to monthly. The agency responded to questions and said the Cabinet is required to develop minimal regulations and the industry is encouraged to go beyond those minimal requirements. Representative Bruce moved that the amendment proposed by Jim Judy be approved. The motion passed, four yeas, three nays (Senator Huff requested this his "no" vote be recorded). The agency agreed to the amendment. Nancy Tullis, Kentucky Dietetic Association, requested that Section 1(6)(b), in the definition of "qualified dietitian" or "nutritionist", be deleted. This subparagraph required that a "qualified dietition" or "nutritionist" have a bachelor of science degree in home economics and 3 years of work experience with a registered dietitian. This amendment was approved by the Subcommittee and the agency.

902 KAR 20:300 (Operation and services: nursing facilities.) At its March meeting, the Subcommittee requested that the Cabinet and representatives of the State Long Term Care Ombudsman, the Kentucky Association of Health Care Facilities, the Kentucky Board of Nursing, and the Office of the Inspector General meet to resolve their differences. the Cabinet presented an amendment at the April meeting to: delete the definition of "responsible party"; to remove references to "responsible party" where appropriate; and to require that the menu be posted at least one week in advance, with changes recorded, and kept on file for at least 30 days. The Subcommittee approved this amendment. Chairman Kerr asked if the agency enforces federal interpretative guidelines before they amend a regulation. Agency personnel responded that the federal guidelines were no longer in existence. Chairman Kerr also asked where the use of restraints was covered by regulation. Agency personnel responded that the use of restraints was covered under regulations governing nursing practices.

Department for Social Insurance: Public Assistance

904 KAR 2:016 (Standards for need and amount: AFDC.) The agency requested an amendment to Section 8(5)(a) relating to: payments to the provider for components which do not provide earned income, or are not work supplementation; and that child care payments shall be allowed as a deduction for any component yielding earned income, other than work supplementation. Additional amendments were made to conform with the drafting requirements of KRS Chapter 13A. These amendments were approved by the Subcommittee.

The Subcommittee determined that the following regulations complied with KRS Chapter 13A:

Council on Higher Education: Nonpublic Colleges

13 KAR 1:020 (Private college licensing.)

Public Educational Institutions

13 KAR 2:020 (Guidelines for undergraduate admission to the state-supported institutions of higher education in Kentucky.)

Department of Law: Asset Forfeiture

40 KAR 4:010 (Disbursement of forfeiture receipts.)

Department of Personnel: Personnel Rules

101 KAR 1:365 (Appeal and hearing procedures.)

Natural Resources and Environmental Protection Cabinet: Department for Surface Mining Reclamation and Enforcement: Bond and Insurance Requirements

405 KAR 10:040 (Procedures, criteria and schedule for release of performance bond.)

Corrections Cabinet: Office of the Secretary

501 KAR 6:060 (Northpoint Training Center.) NTC 13-20-03, relating to disposal of biohazard waste, does not comply with the provisions of KRS 217.177, which requires disposal of syringes in a manner different than that specified in the regulation. In this case, the statute is obsolete and should be amended to reflect recent developments in the handling of biohazards. The Subcommittee requests that LRC review this issue appropriate action during the 1992 General Assembly.

Education and Humanities Cabinet: School Facilities Construction Commission: School Facilities Construction Commission

750 KAR 1:010 (Commission procedures.)

Public Protection and Regulation Cabinet: Department of Housing, Buildings and Construction: Plumbing

815 KAR 20:030 (License application; qualifications for examination, renewal, revival or reinstatement for license.)

815 KAR 20:040 (Truck identification.)

815 KAR 20:050 (Installation permits.)

815 KAR 20:055 (Water heater devices.)

815 KAR 20:060 (Quality and weight of materials.)

815 KAR 20:072 (Installation standards for cast iron soil pipe and fittings.)

815 KAR 20:074 (Installation standards for steel and wrought iron pipe.)

815 KAR 20:075 (Installation recommendations for polybutylene tubing for hot and cold water distribution systems.)

815 KAR 20:077 (Storage and installation of aluminum soil, waste vent and storm water piping and fittings.)

815 KAR 20:100 (Joints and connections.)

815 KAR 20:170 (Mobile home park waste systems and connections.)

815 KAR 20:180 (Special connections.)

Cabinet for Human Resources: Department for Health Services: Health Services and Facilities

902 KAR 20:310 (Facility specifications; nursing facility.) General questions concerning this regulation were covered under discussion of 902 KAR 20:300.

Department for Medicaid Services

Chairman Kerr noted that the following Medicaid regulations have prior effective dates. Agency personnel stated that federal regulations and statutes require specific implementation dates and the agency tries to conform even though the time for conformance is brief.

907 KAR 1:004 (Resources and income standard of medically needy.)

907 KAR 1:102 (Advanced registered nurse practitioner services.)

907 KAR 1:104 (Payments for advanced registered nurse practitioner services.)

907 KAR 1:150 (Payments for alternative home

and community based services for the mentally retarded.)

The following regulations were deferred at the promulgating agency's request:

Transportation Cabinet: Department of Vehicle Regulation: Division of Motor Carriers
601 KAR 1:005 (Safety regulations.)
Department of Highways: Traffic
603 KAR 5:066 (Weight limits for trucks.)

Cabinet for Human Resources: Department for Medicaid Services
907 KAR 1:013 (Payments for hospital inpatient services.)
907 KAR 1:020 (Payment for drugs.)

The Subcommittee had no objections to emergency regulations which had been filed.

The Subcommittee adjourned at 11:15 a.m. until May 6, 1991 at 2 p.m. in Room 327 of the Capitol

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 AGRICULTURE AND NATURAL RESOURCES
Meeting of March 27, 1991

The Interim Joint Committee on Agriculture and Natural Resources met March 27, 1991, and submits this report:

The committee determined that the following administrative regulations comply with KRS Chapter 13A:

Department of Fish and Wildlife Resources
301 KAR 2:047
301 KAR 2:250

The committee adjourned at 2:00 p.m., March 27, 1991.

INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE
Meeting of March 12, 1991

The Interim Joint Committee on Health and Welfare met on Tuesday, March 12, 1991, and submits this report:

The Committee approved a motion to find 902 KAR 17:010 & E, the State Health Plan, deficient because it did not address the health status and needs of Kentuckians, but merely set forth certificate of need review criteria used by the Commission on Health Economics Control in Kentucky (CHECK); the Administrative Regulation Review Subcommittee agreed it did not address health planning and found that it did not comply with KRS Chapter 13A.

The Committee approved 902 KAR 2:150, 902 KAR 2:160, 902 KAR 13:080, 902 KAR 13:120, 902 KAR 20:320 & E, 902 KAR 20:330 & E, 904 KAR 2:006 & E, 904 KAR 2:015 & E, 905 KAR 1:300, 905 KAR 1:310, 907 KAR 1:011 & E, 907 KAR 1:022 & E, 907 KAR 1:025, 907 KAR 1:095, and 907 KAR 1:430.

TASK FORCE ON ELECTIONS AND CONSTITUTIONAL AMENDMENTS
Meeting of April 5, 1991

The Task Force on Elections and Constitutional Amendments has on this date reviewed the following administrative regulations and found them to be in conformity with KRS Chapter 13A:

State Board of Elections
31 KAR 4:020; and
31 KAR 4:060.

TOURISM DEVELOPMENT AND ENERGY TASK FORCE
Meeting of April 4, 1991

The Tourism Development and Energy Task Force met on Thursday, April 4, 1991, and reviewed but took no action on the following regulations:

904 KAR 2:116 and E (Department for Social Insurance)
807 KAR 5:041 (Public Service Commission)
807 KAR 5:061 (Public Service Commission)

INTERIM JOINT COMMITTEE ON STATE GOVERNMENT
Meeting of April 10, 1991

The Interim Joint Committee on State Government met April 10, 1991, and submits this report.

The Committee determined that the following Personnel Board administrative regulations comply with KRS Chapter 13A:
101 KAR 1:325 **(Probationary periods)**
101 KAR 1:365 **(Appeal and hearing procedures)**

INTERIM JOINT COMMITTEE ON BUSINESS ORGANIZATIONS AND PROFESIONS
Meeting of April 11, 1991

The Interim Joint Committee on Business Organizations and Professions met on Thursday, April 11, 1991, and submits this report:

The Committee determined that the following regulations complied with KRS Chapter 13A:

Board of Pharmacy
201 KAR 2:111
Board of Nursing
201 KAR 20:161
201 KAR 20:162
Board of Respiratory Care
201 KAR 29:010

The Committee determined that the following regulation complied with KRS Chapter 13A, as amended:

Real Estate Commission
201 KAR 11:121
Objections were raised to the regulation by Electronic Realty Associates, Inc. (ERA) on the grounds that it lacked flexibility and the language used infringed on trademarked terms. At the March meeting of the BOP Committee, the Real Estate Commission agreed to defer the regulation and work with ERA to draft a suitable amendment. John Ackman, General Counsel for the Real Estate Commission appeared at the April BOP meeting and presented an amendment that was acceptable to both groups. The Committee approved the regulation with amendment.

The meeting of April 11, 1991 at 4:00 p.m., in Louisville, Ky. adjourned at 5:15 p.m.

CUMULATIVE SUPPLEMENT

Locator Index - Effective Dates.....K2

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Subject Index.....K32

LOCATOR INDEX -- EFFECTIVE DATES

NOTE: Emergency regulations expire 120 days from publication or upon replacement or repeal.

VOLUME 16

Emergency Regulation	16 Ky.R. Page No.	Effective Date
902 KAR 17:020E	2646	4-17-90
Replaced		9-13-90

Regulation	16 Ky.R. Page No.	Effective Date
201 KAR 2:074	1713	
Amended	2150	(See 17 Ky.R.)
201 KAR 22:052		
Amended	2440	8-17-90
201 KAR 22:053	2616	(See 17 Ky.R.)
201 KAR 22:101		
Amended	2441	8-17-90
201 KAR 22:110		
Amended	2443	8-17-90
808 KAR 12:020	2811	10-14-90
810 KAR 1:003		
Amended	2744	8-17-90
810 KAR 1:006		
Amended	2748	8-17-90

VOLUME 17

Emergency Regulation	17 Ky.R. Page No.	Effective Date
1 KAR 6:010E	2599	2-7-91
11 KAR 5:030E	5	5-21-90
Replaced	256	9-13-90
11 KAR 5:130E	7	5-21-90
Replaced		8-9-90
11 KAR 5:140E	7	5-21-90
Replaced		8-9-90
11 KAR 5:160E	9	5-21-90
Replaced		8-9-90
11 KAR 6:010E	11	5-21-90
Replaced		8-9-90
11 KAR 8:010E	13	5-21-90
Replaced		8-9-90
11 KAR 8:020E	14	5-21-90
Replaced		8-9-90
11 KAR 8:030E	16	5-21-90
Replaced		8-9-90
11 KAR 8:040E	18	5-21-90
Replaced		8-9-90
11 KAR 11:010E	20	5-21-90
Replaced		8-9-90
11 KAR 11:020E	20	5-21-90
Replaced		8-9-90
11 KAR 11:030E	21	5-21-90
Replaced		8-9-90
11 KAR 11:040E	23	5-21-90
Replaced		8-9-90
11 KAR 11:050E	23	5-21-90
Replaced		8-9-90
30 KAR 2:010E	24	6-13-90
Replaced	155	9-13-90
31 KAR 4:010E	870	7-26-90
Replaced	1229	12-7-90
31 KAR 4:020E	871	7-26-90
Replaced	1229	12-7-90
31 KAR 4:030E	871	7-26-90
Replaced	1230	12-7-90
31 KAR 4:040E	877	7-26-90
Replaced	1231	12-7-90
31 KAR 4:050E	877	7-26-90
Replaced	1232	12-7-90
31 KAR 4:060E	2600	2-6-91
Replaced	3103	4-5-91
31 KAR 5:010E	2931	3-14-91
101 KAR 2:035E	878	8-3-90
Replaced	2171	12-6-90
101 KAR 2:045E	881	8-3-90
Replaced	1968	12-6-90
101 KAR 2:055E	885	8-3-90
Replaced	1971	12-6-90
101 KAR 2:065E	886	8-3-90
Replaced	1243	12-6-90
101 KAR 2:075E	887	8-3-90
Replaced	1245	12-6-90
101 KAR 2:095E	888	8-3-90
Replaced	1972	12-6-90
101 KAR 3:045E	889	8-3-90
Replaced	2173	12-6-90
103 KAR 30:095E	183	6-20-90
Replaced	581	9-27-90
103 KAR 44:040E	1321	9-14-90
Replaced	1632	11-21-90
105 KAR 1:010E	891	8-1-90
Replaced	276	10-10-90
105 KAR 1:040E	184	6-28-90
Replaced	99	9-12-90
200 KAR 17:030E	3085	4-15-91
200 KAR 17:040E	3088	4-15-91
200 KAR 17:050E	3090	4-15-91
200 KAR 18:010E	2932	2-22-91
201 KAR 2:111E	2144	12-11-90
Replaced	2293	4-11-91
201 KAR 2:116E	2144	12-11-90
Replaced	2725	4-5-91
201 KAR 14:100E	893	7-23-90
Replaced	1139	11-29-90
201 KAR 14:130E	893	7-23-90
Replaced	1139	11-29-90
201 KAR 14:140E	894	7-23-90
Replaced	1140	11-29-90
201 KAR 20:390E	1954	10-29-90
Replaced	2428	2-7-91
301 KAR 2:044E	1322	8-23-90
Replaced	1531	11-15-90
301 KAR 2:220E	1955	10-18-90
Replaced	1800	12-19-90
302 KAR 1:055E	894	7-27-90
Replaced	157	8-22-90
302 KAR 1:070E	896	7-27-90
Replaced	1060	8-22-90
302 KAR 20:220E	2145	11-21-90
Replaced	2087	2-7-91

Emergency Regulation	17 Ky.R. Page No.	Effective Date
401 KAR 6:320E	898	7-20-90
Replaced	1421	11-15-90
401 KAR 8:010E	899	7-19-90
Replaced	1422	11-15-90
401 KAR 8:020E	902	7-19-90
Replaced	1425	11-15-90
401 KAR 8:030E	906	7-19-90
Replaced	1428	11-15-90
401 KAR 8:040E	909	7-19-90
Replaced	1432	11-15-90
401 KAR 8:050E	911	7-19-90
Replaced	599	11-15-90
401 KAR 8:060E	912	7-19-90
Replaced	601	11-15-90
401 KAR 8:070E	914	7-19-90
Replaced	1433	11-15-90
401 KAR 8:100E	918	7-19-90
Replaced	1977	11-15-90
401 KAR 8:150E	920	7-19-90
Replaced	1717	11-15-90
401 KAR 8:200E	921	7-19-90
Replaced	1440	11-15-90
401 KAR 8:250E	924	7-19-90
Replaced	619	11-15-90
401 KAR 8:300E	926	7-19-90
Replaced	622	11-15-90
401 KAR 8:350E	928	7-19-90
Replaced	1443	11-15-90
401 KAR 8:400E	929	7-19-90
Replaced	626	11-15-90
401 KAR 8:420E	930	7-19-90
Replaced	628	11-15-90
401 KAR 8:440E	934	7-19-90
Replaced	633	11-15-90
401 KAR 8:500E	935	7-19-90
Replaced	635	11-15-90
401 KAR 8:550E	938	7-19-90
Replaced	639	11-15-90
401 KAR 8:600E	939	7-19-90
Replaced	641	11-15-90
401 KAR 8:650E	940	7-19-90
Replaced	643	11-15-90
401 KAR 8:700E	941	7-19-90
Replaced	645	11-15-90
401 KAR 47:132E	1960	10-19-90
Expired		3-31-91
401 KAR 47:134E	1962	10-19-90
Expired		2-27-91
401 KAR 47:136E	1963	10-19-90
Replaced	2448	3-13-91
405 KAR 7:020E	2600	1-29-91
405 KAR 8:010E	2609	1-29-91
405 KAR 8:030E	2623	1-29-91
405 KAR 8:040E	2636	1-29-91
405 KAR 10:040E	2649	1-22-91
405 KAR 12:020E	2651	1-29-91
500 KAR 6:210E	942	7-18-90
Replaced	1262	12-7-90
500 KAR 6:220E	944	7-18-90
Replaced	1264	12-7-90
500 KAR 9:010E	944	7-19-90
Replaced	162	9-13-90
500 KAR 9:020E	945	7-19-90
Replaced	1061	9-13-90
500 KAR 9:030E	945	7-19-90
Replaced	164	9-13-90
500 KAR 9:040E	946	7-19-90
Replaced	1062	9-13-90
500 KAR 9:050E	946	8-7-90
Expired		10-9-90
500 KAR 9:060E	947	8-7-90
Expired		10-9-90
501 KAR 6:020E	947	7-19-90
Replaced	410	10-14-90
Resubmitted	2377	12-18-90
Replaced	2221	3-13-91
Resubmitted	3093	3-22-91
501 KAR 6:030E	1666	9-20-90
Replaced	1536	12-9-90
501 KAR 6:060E	949	7-19-90
Replaced	413	10-14-90
501 KAR 6:070E	1964	10-18-90
Replaced	1811	1-6-91
501 KAR 6:080E	950	7-19-90
Replaced	415	10-14-90
Resubmitted	3094	3-22-91
501 KAR 6:090E	951	7-19-90
Replaced	415	10-14-90
501 KAR 6:120E	952	7-19-90
Replaced	417	10-14-90
501 KAR 6:130E	2379	12-18-90
Withdrawn		2-14-91
Resubmitted	2934	2-20-91
501 KAR 6:150E	25	5-18-90
Replaced		8-9-90
501 KAR 6:160E	1668	9-20-90
Replaced	1648	12-9-90
501 KAR 9:025E	2147	11-20-90
Replaced	2095	2-7-91
501 KAR 11:010E	954	7-19-90
Replaced	690	10-14-90
502 KAR 45:050E	1965	11-8-90
Replaced	2441	2-7-91
601 KAR 1:005E	2655	1-24-91
601 KAR 1:029E	26	6-14-90
Replaced	1062	9-4-90
601 KAR 1:160E	27	6-14-90
Replaced	1063	9-4-90
601 KAR 11:010E	2657	1-24-91
Replaced	2566	4-5-91
601 KAR 11:040E	2658	1-24-91
Replaced	2570	4-5-91
601 KAR 13:070E	1323	8-28-90
Replaced	1991	12-4-90
603 KAR 5:110E	954	8-2-90
Replaced	1736	12-4-90
603 KAR 5:111E	956	8-2-90
Replaced	1737	12-4-90
603 KAR 5:112E	1668	10-1-90
Replaced	2203	2-7-91
603 KAR 5:230E	958	7-31-90
Replaced	1739	12-4-90
603 KAR 5:240E	995	7-19-90
Replaced	1352	10-2-90
702 KAR 1:130E	996	7-19-90
Replaced	692	10-14-90
704 KAR 3:304E	996	7-19-90
Replaced	458	10-14-90
704 KAR 7:100E	997	7-19-90
Replaced	705	10-14-90
750 KAR 1:010E	2935	2-15-91
781 KAR 1:010E	186	7-3-90
Expired		12-1-90
781 KAR 1:020E	188	7-3-90
Expired		12-1-90
781 KAR 1:030E	192	7-3-90
Expired		12-1-90
781 KAR 1:040E	194	7-3-90
Replaced	789	10-14-90
781 KAR 1:050E	195	7-3-90
Replaced	791	10-14-90
781 KAR 1:060E	198	7-3-90
Replaced	794	10-14-90
781 KAR 1:070E	199	7-3-90
Replaced	796	10-14-90

Emergency Regulation	17 Ky.R. Page No.	Effective Date
781 KAR 2:010E	200	7-3-90
Expired		12-1-90
781 KAR 2:020E	202	7-3-90
Expired		12-1-90
806 KAR 11:020E	2149	11-21-90
Replaced	2311	3-13-91
806 KAR 12:092E	998	7-17-90
Replaced	1503	11-15-90
806 KAR 12:094E	1000	7-17-90
Replaced	1505	11-15-90
806 KAR 17:066E	1004	7-17-90
Replaced	1298	10-14-90
806 KAR 18:040E	2380	12-14-90
Replaced	2950	4-5-91
901 KAR 5:050E	28	6-12-90
Replaced	121	9-13-90
902 KAR 10:021E	28	5-16-90
Replaced		7-18-90
902 KAR 10:030E	29	5-16-90
Replaced		7-18-90
902 KAR 10:040E	1016	7-19-90
Replaced	1372	9-19-90
902 KAR 10:060E	30	5-16-90
Replaced		7-18-90
902 KAR 10:121E	30	5-16-90
Replaced		7-18-90
902 KAR 10:130E	30	5-16-90
Replaced		7-18-90
902 KAR 11:010E	204	6-21-90
Replaced	129	9-13-90
902 KAR 15:010E	1021	7-19-90
Replaced	1392	9-19-90
902 KAR 15:020E	1024	7-19-90
Replaced	500	9-19-90
902 KAR 17:010E	1670	10-4-90
Expired*		12-6-90
Resubmitted	2382	12-18-90
Replaced	2278	3-12-91
902 KAR 20:006E	1028	7-19-90
Replaced	1724	12-7-90
902 KAR 20:008E	205	6-21-90
Replaced	133	9-13-90
902 KAR 20:116E	1966	10-15-90
Expired*		12-6-90
902 KAR 20:133E	1035	7-19-90
Replaced	834	9-19-90
902 KAR 20:135E	207	6-21-90
Replaced	135	9-13-90
902 KAR 20:300E	1670	10-5-90
Expired*		12-6-90
Resubmitted	2383	12-18-90
902 KAR 20:310E	1681	10-5-90
Expired*		12-6-90
Resubmitted	2394	12-18-90
902 KAR 20:320E	2150	11-19-90
Replaced	2452	3-12-91
902 KAR 20:330E	2163	11-19-90
Replaced	2123	3-12-91
902 KAR 45:005E	207	7-11-90
Replaced	1395	9-19-90
902 KAR 45:110E	31	5-16-90
Replaced	222	7-11-90
Resubmitted	222	7-11-90
Replaced	526	9-19-90
902 KAR 45:120E	32	5-16-90
Replaced	222	7-11-90
Resubmitted	222	7-11-90
Replaced	528	9-19-90
902 KAR 55:010E	32	5-30-90
Replaced	136	9-13-90
902 KAR 55:020E	3095	4-12-91
902 KAR 55:025E	3096	4-12-91

Emergency Regulation	17 Ky.R. Page No.	Effective Date
903 KAR 1:010E	223	6-21-90
Replaced	137	9-13-90
903 KAR 5:270E	224	6-21-90
Replaced	138	9-13-90
903 KAR 5:290E	3097	4-3-91
904 KAR 2:006E	1325	9-14-90
Replaced	1608	12-9-90
Resubmitted	2401	1-2-91
Replaced	2520	3-12-91
904 KAR 2:015E	1035	8-2-90
Replaced	1731	12-7-90
Resubmitted	2408	1-4-91
Replaced	2527	3-12-91
904 KAR 2:016E	1331	9-14-90
Replaced	1616	12-9-90
Resubmitted	2661	2-11-91
904 KAR 2:035E	1040	7-19-90
Replaced	532	9-19-90
904 KAR 2:050E	1041	7-19-90
Replaced	1412	9-19-90
904 KAR 2:110E	1688	10-4-90
Replaced	1864	12-19-90
904 KAR 2:116E	2167	12-6-90
Replaced	2955	4-4-91
904 KAR 3:035E	1690	10-9-90
Replaced	1867	12-18-90
905 KAR 2:010E	225	6-21-90
Replaced	140	9-13-90
907 KAR 1:004E	1042	7-19-90
Replaced	535	9-19-90
Resubmitted	2670	1-17-91
907 KAR 1:006E	1052	7-19-90
Replaced	546	9-19-90
907 KAR 1:010E	232	7-11-90
Replaced	1518	12-7-90
907 KAR 1:011E	1053	7-19-90
Replaced	549	9-19-90
Resubmitted	2681	1-17-91
Replaced	2543	3-12-91
907 KAR 1:013E	234	7-11-90
Replaced	1520	12-7-90
Resubmitted	2686	2-6-91
907 KAR 1:014E	237	7-11-90
Replaced	557	9-19-90
907 KAR 1:015E	238	7-11-90
Replaced	1944	12-7-90
907 KAR 1:016E	238	7-11-90
Replaced	559	9-19-90
907 KAR 1:017E	1058	8-7-90
Replaced	1295	12-7-90
Resubmitted	3098	3-28-91
907 KAR 1:019E	1694	10-9-90
Replaced	1871	12-18-90
907 KAR 1:020E	1695	10-9-90
Expired*		12-6-90
Resubmitted		12-17-90
Withdrawn		12-28-90
Resubmitted	2412	12-28-90
Expired		4-3-91
Resubmitted	3100	4-3-91
907 KAR 1:022E	1697	10-5-90
Expired*		12-6-90
Resubmitted	2414	12-17-90
Replaced	2958	3-12-91
907 KAR 1:025E	1701	10-5-90
Expired*		12-6-90
Resubmitted	2418	12-17-90
Replaced	2963	3-12-91
907 KAR 1:027E	239	7-11-90
Replaced	561	9-19-90

Emergency Regulation	17 Ky.R. Page No.	Effective Date
907 KAR 1:036E	241	7-11-90
Withdrawn		9-10-90
Resubmitted	1342	9-10-90
Replaced	1414	9-19-90
907 KAR 1:039E	248	7-11-90
Replaced	572	9-19-90
907 KAR 1:040E	249	7-11-90
Replaced	573	9-19-90
907 KAR 1:045E	250	7-11-90
Replaced	574	9-19-90
907 KAR 1:061E	1708	10-5-90
Replaced	1880	12-18-90
907 KAR 1:102E	1710	10-9-90
Expired*		12-6-90
Resubmitted	2425	12-17-90
907 KAR 1:104E	1711	10-9-90
Expired*		12-6-90
Resubmitted	2426	12-17-90
907 KAR 1:150E	2427	1-11-91
907 KAR 1:280E	251	7-11-90
Replaced	579	9-19-90
908 KAR 1:020E	252	6-21-90
Replaced	151	9-13-90
908 KAR 1:160E	253	6-21-90
Replaced	153	9-13-90

*Emergency expired; ordinary regulation died because Statement of Consideration was not filed 15 days following public hearing. (KRS 13A.190(10)(b))

Regulation	17 Ky.R. Page No.	Effective Date
1 KAR 6:010	2916	
As Amended	3103	
11 KAR 5:030		
Amended	256	9-13-90
11 KAR 7:010		
Amended	2007	2-7-91
11 KAR 7:020		
Amended	2010	2-7-91
13 KAR 1:020	2552	
Amended	2970	
13 KAR 2:020		
Amended	2466	
Amended	2975	
13 KAR 2:040		
Repealed	2557	4-5-91
13 KAR 2:045	2557	4-5-91
13 KAR 2:050		
Amended	3213	
30 KAR 2:010	155	9-13-90
31 KAR 4:010	1229	12-7-90
31 KAR 4:020	1229	12-7-90
Amended	2470	4-5-91
31 KAR 4:030	1230	12-7-90
31 KAR 4:040	1231	12-7-90
31 KAR 4:050	1232	12-7-90
31 KAR 4:060	2917	
As Amended	3103	4-5-91
31 KAR 5:010	3050	
40 KAR 4:010	2917	
101 KAR 1:325		
Amended	1114	11-14-90
Amended	2755	
As Amended	3104	4-10-91
101 KAR 1:335		
Amended	95	9-12-90
101 KAR 1:365		
Amended	2756	4-10-91
101 KAR 1:375		
Amended	97	9-12-90
101 KAR 1:400	156	9-12-90
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603 KAR 5:075		
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603 KAR 5:105	1266	11-12-90
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603 KAR 5:111	1267	
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603 KAR 5:112	1886	
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603 KAR 5:230		
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603 KAR 5:250	3066	
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702 KAR 1:010		
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702 KAR 1:026	168	9-13-90
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702 KAR 3:030 Amended	426	
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702 KAR 3:040 Amended	1547	12-9-90
702 KAR 3:045 Amended	1548	12-9-90
702 KAR 3:050 Amended	1548	12-9-90
702 KAR 3:060 Amended	1549	12-9-90
702 KAR 3:070 Amended	1550	12-9-90
702 KAR 3:075 Amended	1552	12-9-90
702 KAR 3:080 Amended	1552	12-9-90
702 KAR 3:090 Amended	1553	12-9-90
702 KAR 3:100 Amended	1554	
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702 KAR 3:110 Amended	1555	
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702 KAR 3:120 Amended	427	10-14-90
702 KAR 3:130 Amended	428	
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702 KAR 3:135 Amended	2019	2-7-91
702 KAR 3:150 Amended	2020	2-7-91
702 KAR 3:170 Amended	1556	12-9-90
702 KAR 3:190 Amended	429	12-7-90
702 KAR 3:200 Amended	109	
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702 KAR 3:210 Repealed	169	9-13-90
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702 KAR 3:220	1651	
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702 KAR 4:005 Amended	2021	2-7-91
702 KAR 4:010 Amended	2234	3-13-91
702 KAR 4:020 Amended	2235	3-13-91
702 KAR 4:030 Amended	2237	3-13-91
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702 KAR 4:110 Amended	2031	2-7-91
702 KAR 4:120 Amended	2032	2-7-91
702 KAR 4:130 Amended	2033	2-7-91
702 KAR 5:010 Amended	431	10-14-90
Amended	2035	2-7-91
702 KAR 5:020 Amended	432	10-14-90
702 KAR 5:030 Amended	435	
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702 KAR 5:040 Amended	2037	2-7-91
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702 KAR 5:060 Amended	436	10-14-90
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702 KAR 5:100 Amended	438	10-14-90
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702 KAR 5:130 Amended	442	10-14-90
702 KAR 5:140 Amended	443	10-14-90
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702 KAR 6:050 Amended	2044	2-7-91
702 KAR 6:060 Amended	2045	2-7-91
702 KAR 6:070 Expired		7-13-90
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702 KAR 6:090 Amended	2046	3-13-91
702 KAR 7:010 Amended	444	10-14-90
702 KAR 7:020 Amended	446	10-14-90
702 KAR 7:030 Amended	447	10-14-90
702 KAR 7:040 Amended	448	10-14-90
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Amended	453	10-14-90
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704 KAR 3:035		
Amended	455	
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704 KAR 3:265		
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704 KAR 5:050		
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704 KAR 7:030		
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704 KAR 7:040		
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704 KAR 7:050		
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706 KAR 1:080 Repealed	706	10-14-90
706 KAR 1:090 Repealed	706	10-14-90
706 KAR 1:100 Repealed	706	10-14-90
706 KAR 1:110 Repealed	706	10-14-90
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709 KAR 1:130 Repealed	707	10-14-90
709 KAR 1:140 Repealed	707	10-14-90
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750 KAR 1:010		
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780 KAR 3:060	735	10-14-90
780 KAR 3:070	736	10-14-90
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780 KAR 5:010	755	10-14-90
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806 KAR 12:130		
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806 KAR 17:065		
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